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Commission on Crime Prevention and Criminal Justice

Report on the Sixth Session

(28 April-9 May 1997)

Economic and Social Council

Official Records, 1997

Supplement No. 10

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SUMMARY

At its sixth session, the Commission on Crime Prevention and Criminal Justice recommended the adoption of five draft resolutions by the General Assembly and ten draft resolutions and one draft decision by the Economic and Social Council. In addition, it adopted one resolution to be brought to the attention of the Council.

I. DRAFT RESOLUTIONS TO BE APPROVED BY THE ECONOMIC AND SOCIAL COUNCIL FOR ADOPTION BY THE GENERAL ASSEMBLY

In draft resolution I, on follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, the General Assembly would urge States to continue implementing its provisions and would decide to establish an inter-sessional open-ended intergovernmental group of experts, a meeting of which would be hosted by the Government of Poland, for the purpose of elaborating a preliminary draft of a possible comprehensive international convention against organized transnational crime, which would submit a report to the Commission at its seventh session. The Assembly would also request the Secretary-General to continue his work on the central repository established pursuant to Economic and Social Council resolution 1996/27 and to assist States in collecting and systematizing data and other information on the occurrence, dimensions and patterns of organized transnational crime.

In draft resolution II, on the preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the General Assembly would decide that the Tenth Congress should be held in the year 2000 and that four substantive topics should be included in its provisional agenda, together with four related workshops, and a high-level segment.

In draft resolution III, on crime prevention and criminal justice measures to eliminate violence against women, the General Assembly would adopt the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, annexed to the draft resolution, and would urge Member States to be guided by them in developing strategies and practical measures to eliminate violence against women and in promoting women's equality within the criminal justice system.

In draft resolution IV, on international cooperation against corruption and bribery in international commercial transactions, the General Assembly would urge Member States to implement relevant international declarations and to ratify international instruments against corruption, as well as to criminalize, in an effective and coordinated manner, the bribery of public office holders in other States in international commercial transactions, encouraging them to engage in programmatic activities to deter, prevent and combat bribery and corruption.

In draft resolution V, on international cooperation in criminal matters, the General Assembly would request the Secretary-General to convene a meeting of an intergovernmental expert group to examine practical recommendations for the further development and promotion of mutual assistance in criminal matters. The Assembly would also decide that the Model Treaty on Extradition should be complemented with certain provisions, contained in the annex to the draft resolution, and would request the Secretary-General to elaborate, for submission to the Commission, model legislation to assist Member States in giving effect to the Model Treaty.

II. DRAFT RESOLUTIONS AND DRAFT DECISION RECOMMENDED FOR ADOPTION BY THE ECONOMIC AND SOCIAL COUNCIL

In draft resolution I, on strengthening the United Nations Crime Prevention and Criminal Justice Programme with regard to the development of crime statistics and the operations of criminal justice systems, the Economic and Social Council would recommend that the Secretary-General should carry out the Sixth United Nations Survey of Crime and the Operations of Criminal Justice Systems for the period 1995-1997 and would urge Member States and the relevant institutes of the United Nations Crime Prevention and Criminal Justice Programme network to assist the Secretary-General in establishing an advisory steering group to carry out specific operational tasks related to the computerization, collection, processing and dissemination of criminal justice data and other information.

In draft resolution II, on firearm regulation for the purpose of crime prevention and public health and safety, the Economic and Social Council would encourage Member States to consider regulatory approaches to the civilian use of firearms and would request the Secretary-General to continue the data collection and dissemination of information on firearm regulation and to seek the views of Member States, institutes comprising the Programme network, relevant United Nations entities and intergovernmental and non-governmental organizations on the development of a declaration of principles on firearm regulation. The Council would also request the Secretary-General to publish the "United Nations international study on firearm regulation" and would encourage Member States to disseminate it.

In draft resolution III, on measures on the prevention and control of illicit trafficking in motor vehicles, the Economic and Social Council would urge Member States to improve international cooperation in the prevention and control of the theft of and illicit trafficking in motor vehicles and to conclude bilateral and/or multilateral agreements or arrangements on a simplified and effective procedure for recovering stolen motor vehicles, taking into account the Model Bilateral Treaty for the Return of Stolen or Embezzled Vehicles, annexed to the draft resolution, as well as the United Nations model treaties on international cooperation in criminal matters. The Council would also request the Secretary-General to elaborate training manuals for law enforcement and customs personnel on the prevention and control of trafficking in stolen and misappropriated vehicles and on vehicle identification and to develop and carry out training programmes on the recovery of stolen vehicles.

In draft resolution IV, on the administration of juvenile justice, the Economic and Social Council would welcome the Guidelines for Action on Children in the Criminal Justice System, annexed to the draft resolution, and would invite the Crime Prevention and Criminal Justice Division of the Secretariat and other entities of the United Nations system to give favourable consideration to requests of Member States for technical assistance in the field of juvenile justice. The Council would also invite the Secretary-General to strengthen system-wide coordination of activities in that field and to consider establishing a coordination panel on technical advice and assistance in juvenile justice.

In draft resolution V, on victims of crime and abuse of power, the Economic and Social Council would welcome the positive developments related to the work of the Preparatory Committee on the Establishment of an International Criminal Court and would recommend that appropriate attention should be given to the principles contained in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power in its statute and rules of procedure. The Council would take note of the results of two expert group meetings devoted to the elaboration of a manual as a strategic guide for policy makers and of a handbook as a resource tool for practitioners and would request the Secretary-General to seek the views of Governments on finalizing their texts for submission to the Commission at its seventh session.

In draft resolution VI, on the United Nations standards and norms in crime prevention and criminal justice, the Economic and Social Council would request the Secretariat to prepare the relevant survey instruments on the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), the Guidelines on the Role of Prosecutors and the Basic Principles on the Role of Lawyers for submission to the Commission at its seventh session and to convene a group of experts, attending in their individual capacity, to review the draft minimum rules for the administration of criminal justice.

In draft resolution VII, entitled "Elements of responsible crime prevention: standards and norms", the Economic and Social Council would take note of the preliminary draft annexed to the resolution and would request the Secretary-General to seek comments on those elements from Member States, relevant intergovernmental and non-governmental organizations and the institutes comprising the Programme network, to organize an ad hoc expert group meeting to examine the comments and to elaborate proposals for further action by the Commission.

In draft resolution VIII, on the implementation of the United Nations Declaration on Crime and Public Security, the Economic and Social Council would request the Secretary-General, using a questionnaire or other means to ensure standardized responses, to seek from Member States, as well as any interested intergovernmental organizations or United Nations institutes, information related to the implementation of the Declaration. It would also decide that the Declaration should be published in the *Compendium of Standards and Norms in Crime Prevention and Criminal Justice.*

In draft resolution IX, on technical cooperation and international advisory services in crime prevention and criminal justice, the Economic and Social Council would express its concern at the lack of adequate resources, which may impede progress in the further operationalization of the United Nations Crime Prevention and Criminal Justice Programme. The Council would also request the Secretary-General to further enhance the resources required for operational activities and to include in his programme budget proposals for the biennium 1998-1999, under the section of technical cooperation, adequate funds for maintaining the two posts of interregional advisers in crime prevention and criminal justice and for further strengthening such services to support technical assistance activities.

In draft resolution X, on international cooperation for the improvement of prison conditions, the Economic and Social Council, noting the Kampala Declaration on Prison Conditions in Africa, annexed to the draft resolution, would request the Secretary-General to assist, upon request, countries in the improvement of their prison conditions. The Council would also urge Member States to introduce appropriate alternatives to imprisonment in their criminal justice systems and would recommend them to adopt appropriate effective measures to reduce pretrial detention.

In the draft decision, the Economic and Social Council would decide that each session of the Commission should have one prominent theme and that the themes for the seventh, eighth and ninth sessions should be respectively, "Organized transnational crime", "Crime prevention" and "Results of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders".

III. RESOLUTION ADOPTED BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

In its resolution 6/1, on strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme, the Commission endorsed the recommendations of the bureau with respect to the streamlining of its substantive agenda and organization of work and requested its Chairman to convene an informal working group of its members to undertake a review of the programme mandates and resources with a view to establishing a more realistic relationship between them. The Commission took note of the note by the Secretary-General on the proposed programme of work in crime prevention and criminal justice for the biennium 1998-1999, decided to submit the comments reflected in its report to the appropriate bodies of the United Nations and requested the Secretary-General to ensure the provision of sufficient resources for the implementation of the programme activities. In addition, the Commission called upon the Secretary-General to redeploy savings in administration and conference services to the Crime Prevention and Criminal Justice Programme. The Commission also took note of the report of the Chairman of the informal consultative group on resource mobilization, called on Member States to contribute to the United Nations Crime Prevention and Criminal Justice Fund to cover the cost of support for developing and administering the technical cooperation component of the Programme and requested the Secretary-General to issue a consolidated appeal on crime prevention and criminal justice requirements to Governments.

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Chapter I

MATTERS CALLING FOR ACTION BY THE ECONOMIC AND SOCIAL COUNCIL OR BROUGHT TO ITS ATTENTION

A. Draft resolutions to be recommended by the Economic and Social Council for adoption by the General Assembly

1. The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the approval of the following draft resolutions for adoption by the General Assembly:

DRAFT RESOLUTION I

Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime*

The Economic and Social Council recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Recalling its resolution 49/159 of 23 December 1994, in which it approved the Naples Political Declaration and Global Action Plan against Organized Transnational Crime,[1]

Recalling Economic and Social Council resolution 1996/27 of 24 July 1996,

Recalling its resolution 51/120 of 12 December 1996, on the question of the elaboration of an international convention against organized transnational crime,

Convinced of the importance of continuous action by Member States aimed at the full implementation of the Naples Political Declaration and Global Action Plan,

Reiterating the need for increased technical cooperation activities and the provision of practical assistance to requesting Member States for the implementation of the Naples Political Declaration and Global Action Plan,

1. *Takes note* of the reports of the Secretary-General, submitted to the Commission on Crime Prevention and Criminal Justice at its sixth session, on the implementation of the Naples Political Declaration

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* For the discussion, see chapter V.

[1] A/49/748, annex, sect. I.A.

and Global Action Plan against Organized Transnational Crime,[2] and on the question of the elaboration of an international convention against organized transnational crime;[3]

2. *Takes note* of the forty recommendations elaborated by the Senior Experts Group on Transnational Organized Crime and endorsed at Lyon, France, from 27 to 29 June 1996, which are contained in annex I to the present resolution;

3. *Takes note* of the report of the informal meeting on the question of the elaboration of an international convention against organized transnational crime, held at Palermo, Italy, from 6 to 8 April 1997,[4] and expresses its appreciation to the Fondazione Giovanni e Francesca Falcone for organizing and acting as host to the meeting;

4. *Reiterates* the high priority accorded to the United Nations Crime Prevention and Criminal Justice Programme, as well as to its work on action against organized transnational crime in general and to the implementation of the Naples Political Declaration and Global Action Plan in particular;

5. *Urges* States to continue making every effort possible to fully implement the Naples Political Declaration and Global Action Plan by taking the most appropriate legislative, regulatory and administrative measures, including those aimed at prevention;

6. *Requests* the Commission on Crime Prevention and Criminal Justice to continue its review of the implementation of the Naples Political Declaration and Global Action Plan as a matter of high priority;

7. *Invites* developing countries and countries with economies in transition to undertake action against organized transnational crime and to promote international cooperation in this field as priorities of their development efforts and to include in their requests to the United Nations Development Programme for assistance, also as part of the country programme framework of the United Nations Development Programme, projects on action against organized transnational crime and money-laundering, with a view to upgrading national institutional capacities and professional expertise in these fields;

8. *Calls upon* the United Nations Development Programme, the World Bank and other international, regional and national funding agencies to give favourable consideration to project proposals on strengthening national or regional capacities and creating the expertise required for the prevention and control of organized transnational crime and money-laundering, elaborated and submitted to them by the Crime Prevention and Criminal Justice Division of the Secretariat;

9. *Requests* the Secretary-General to continue his work on the central repository established pursuant to Economic and Social Council resolution 1996/27, with a view to increasing, maintaining and updating the data and other information contained in the repository and making such information available to States, and for this purpose to continue collecting information and material, taking into account the methodological points and categorization of data listed in annex II to the present resolution, including legislative and regulatory texts on the prevention and control of organized transnational crime, as well as reports on preventive measures;

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[2] E/CN.15/1997/7.

[3] E/CN.15/1997/7/Add.1.

[4] E/CN.15/1997/7/Add.2, annex.

10. *Calls upon* all States and relevant international organizations and institutes affiliated and associated with the United Nations to assist the Secretary-General in the implementation of paragraph 9 above by providing him with data and other information, as well as legislative and regulatory texts, and to keep such data up to date;

11. *Requests* the Secretary-General to continue to provide to States on request advisory services and other forms of assistance in the field of prevention and control of organized transnational crime;

12. *Also requests* the Secretary-General to assist States in collecting and systematizing data and other information on the occurrence, dimensions and patterns of organized transnational crime by designing and undertaking a comparative study on the situation of organized transnational crime in the world;

13. *Further requests* the Secretary-General to review the data submitted to the central repository and take into account that data in developing model legislation against organized transnational crime, as well as technical manuals for law enforcement and judicial personnel, and agencies engaged in preventive activities;

14. *Decides* to establish an inter-sessional open-ended intergovernmental group of experts within existing resources or, where possible, funded by extrabudgetary resources if made available, for the purpose of elaborating a preliminary draft of a possible comprehensive international convention against organized transnational crime, with a view to submitting a report to the Commission on Crime Prevention and Criminal Justice at its seventh session;

15. *Welcomes*the generous offer of the Government of Poland to organize and host a meeting of the intergovernmental group of experts;

16. *Requests* the intergovernmental group of experts, when elaborating the preliminary draft:

(a) To take into account existing multilateral instruments, the draft United Nations framework convention against organized crime presented by the Government of Poland at the fifty-first session of the General Assembly,[5] contained in annex III to the present resolution, the report by the chairman of the working group, established by the Commission on Crime Prevention and Criminal Justice at its sixth session, on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime and the question of the elaboration of an international convention against organized transnational crime, contained in annex IV to the present resolution, the principles indicated in the above-mentioned forty recommendations, and the observations and proposals made by other Member States during the sixth session of the Commission on Crime Prevention and Criminal Justice, including those contained in annexes V and VI to the present resolution, as well as those contained in the report of the Secretary-General on the question of the elaboration of an international convention against organized transnational crime[6] and the principles contained in the report of the Secretary-General on measures to prevent trafficking in children;[7]

(b) To give priority consideration to the following issues:

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[5] A/C.3/51/7.

[6] E/CN.15/1997/7/Add.1.

[7] E/CN.15/1997/12.

(i) Measures for judicial and police cooperation, particularly in relation to mutual assistance, extradition, money-laundering and confiscation of illicit assets, protection of witnesses, information-sharing, training and other forms of technical assistance;

(ii) Identification of the scope of application of the above-mentioned measures, having particular regard to the documents contained in annexes III and IV to the present resolution, referred to in subparagraph 16 (a) above;

(iii) Provisions related to criminal offences, particularly in the areas of criminal associations, conspiracy and money-laundering;

(c) To also consider indicating the need for special provisions related to specific types of crime, such as, *inter alia*, trafficking in children, corruption, offences related to firearms, trafficking in illegal migrants, theft of motor vehicles, that may be the subject of international instruments, whether associated with or separate from the draft convention;

17. *Requests* the Secretary-General to provide to the Crime Prevention and Criminal Justice Division adequate resources for the preparation and servicing of the meeting of the intergovernmental group of experts;

18. *Requests* the Commission on Crime Prevention and Criminal Justice to report to it at its fifty-third session, through the Economic and Social Council, on the progress achieved in its work on this question.

Annex I

P8—SENIOR EXPERTS GROUP RECOMMENDATIONS

To combat Transnational Organized Crime efficiently members recommend the following:

1. States should review their laws governing criminal offences, jurisdiction, law enforcement powers and international cooperation, as well as their measures dealing with law enforcement training and crime prevention, to ensure that the special problems created by Transnational Organized Crime are effectively addressed.

2. With the aim of improving mutual assistance, States should, as needed, develop mutual legal assistance arrangements or treaties, and exercise flexibility in the execution of requests for mutual assistance.

3. States should, where feasible, render mutual assistance, notwithstanding the absence of dual criminality.

4. States developing mutual assistance treaties should ensure that the treaties:

   a. Provide a clear description of the scope of the assistance available,

   b. Encourage a speedy process for assistance,

   c. Are as comprehensive as possible in terms of assistance available, and

d. Reflect the principle that evidence will be gathered in the manner sought by the Requesting States, unless the procedures are contrary to the fundamental principles of the law of the Requested State.

To further facilitate cooperation against Transnational Organized Crime, States should consider negotiating arrangements in areas that are not covered by Mutual Legal Assistance Treaties.

5. States should establish a Central Authority which would be structured to provide speedy coordination of requests. The Central Authority should provide a quality control and prioritizing function for both incoming and outgoing requests to take into account both the seriousness of the offence and the urgency of the request.

At the same time, the Central Authority should not be seen as an exclusive channel for assistance between States. Direct exchange of information between law enforcement agencies should be encouraged to the extent permitted by domestic laws or arrangements.

6. States should prepare and distribute to other States materials that would describe the channels of communication for mutual assistance and extradition and the process for obtaining such assistance from that State.

7. In cases where a criminal activity occurs in several countries, States with jurisdiction should coordinate their prosecutions and the use of mutual assistance measures in a strategic manner so as to be more efficient in the fight against transnational criminal groups.

8. States should be encouraged to develop, through treaties, arrangements and legislation, a network for extradition.

States should modernize their extradition treaties by eliminating the lists of crimes and allowing for extradition for conduct punishable in both States by deprivation of liberty in excess of an agreed minimum period.

States should make best efforts to ensure that their domestic arrangements for extradition are flexible enough to permit extradition to States of a different legal tradition. They should seek to identify and eliminate obstacles to extradition, including those that may arise from the differences between legal systems, by, for example, simplifying evidentiary and procedural requirements.

9. States should ensure that their domestic arrangements for extradition are as effective and expeditious as possible.

States should also consider the possibility of extradition without a treaty.

10. If extradition of nationals is not permitted by the Requested State, and the extradition of one of its nationals is requested, the Requested State should:

(1) allow for conditional extradition on the condition that it is only for trial and that its national be promptly returned after trial to its territory for service of any sentence within the limits of the law of the Requested State, or

(2) allow for transfer/surrender, when it is permitted by domestic law, only for trial and on the condition that its national be promptly returned after trial to its territory for service of any sentence within the limits of the law of the Requested State, or

(3) apply the rule of *aut dedere, aut judicare* by, at the request of the Requesting State, submitting the case to its competent authorities in order that proceedings may be taken if they are considered appropriate.

11. States should promote other techniques for mutual education that will facilitate mutual assistance and extradition, such as language training, secondments and exchanges between personnel in Central Authorities or between executing and requesting agencies.

Training courses, joint seminars and information exchange sessions should be encouraged on a bilateral, regional and world wide basis.

12. Consideration should also be given to posting in other States representatives of prosecuting agencies or of judicial authorities.

13. States should provide effective protection for individuals who have given or agreed to give information or evidence, or who participate or who have agreed to participate in an investigation or prosecution of an offence, and for the relatives and associates of those individuals who require protection, because of risk to the security of the person.

14. States should consider, as appropriate, reciprocal arrangements for the protection of witnesses and other endangered persons.

15. States should consider adopting appropriate measures to ensure the protection of witnesses during criminal proceedings. These might include such methods as testifying by telecommunications or limiting the disclosure of the address and identifying particulars of witnesses.

Consideration should be given to the temporary transfer as witnesses of persons in custody, enlargement of the admissibility of written statements, and the use of modern technology, such as video links, to overcome some of the current difficulties with obtaining the testimony of witnesses located outside the prosecuting State.

16. States should review their laws in order to ensure that abuses of modern technology that are deserving of criminal sanctions are criminalized and that problems with respect to jurisdiction, enforcement powers, investigation, training, crime prevention and international cooperation in respect of such abuses are effectively addressed. Liaison between law enforcement and prosecution personnel of different States should be improved, including the sharing of experience in addressing these problems. States should promote study in this area and negotiate arrangements and agreements to address the problem of technological crime and investigation.

17. States should take all other lawful steps available under domestic legislation, to ensure that they do not provide safe havens for criminals.

18. We commend the work done by Interpol and World Customs Organization calling upon these organizations to maintain and develop their support for operational activity, facilitating as rapid as possible an exchange of information between law enforcement agencies. We call upon them to focus on a strategic overview of the methods of, and trends in, Transnational Organized Crime for the benefit of all their member countries.

19. In order to facilitate the work of law enforcement practitioners we will, on request, provide brief guides on our respective legal systems and on the mandates of relevant agencies.

20. States should identify within their existing structures central contact points for the purpose of facilitating contact between their operational agencies. It may be useful to locate these points in liaison with the Interpol National Central Bureau.

21. We stress the important contribution that liaison officers can make to the fight against Transnational Organized Crime. We encourage States to make the most effective use possible of their liaison officers in other countries and to consider additional postings. We stress the need for liaison officers to have access, in accordance with the law of the host country, to all agencies of that country with relevant responsibilities.

22. We reiterate our condemnation of drug trafficking which is a major source of finance for Transnational Organized Criminal Groups.

Therefore we:

- Reaffirm the importance of the three United Nations Conventions (1961, 1971 and 1988) which are fundamental to action against illicit drugs,
- Call on all States to adopt and fully implement legislation in accordance with those conventions,
- Believe in the value of giving the widest publicity to information issued by official international bodies, such as the International Narcotics Control Board, on illicit drug production, trafficking and the proceeds of the illicit drug trade,
- Will work in all relevant fora to prevent the diversion of chemical precursors used in illicit drug production and take necessary steps to implement fully all relevant international agreements,
- Welcome and support implementation of the recommendations of the United Nations International Drug Control Programme working group on maritime cooperation.

23. In order to ensure more effective transnational crime prevention, and foster public safety, we will develop strategies to identify and combat the illicit traffic in firearms.

In furtherance of this goal, and in support of the specific recommendations contained in the May 1995 resolution from the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the July 1995 United Nations Economic and Social Council resolution, we will, and encourage other States to, review existing firearms laws and regulations to facilitate discussion at an international level.

We will promote information exchange among our relevant law enforcement authorities.

We will encourage States to enhance the exchange of information useful for law enforcement purposes (e.g., data for the identification of illicit firearms and specific information on tests conducted on firearms and ammunition which have been used in the course of criminal activities).

24. States should ensure that immigration services play their part in the fight against Transnational Organized Crime. We note the involvement of Transnational Organized Crime in alien smuggling and call upon all States to enact legislation to criminalize such smuggling of persons. Immigration services and other agencies should:

- Exchange information on the transnational movement of organized criminals,
- Have as full as possible an exchange of information on forged and stolen documents used by traffickers,
- Consider the most effective means for its communication.

We will take necessary steps to improve the quality of our travel documents. We encourage other States to improve theirs and will assist them to do so.

25. We support the exchange of law enforcement expertise regarding scientific and technological developments such as advances in forensic sciences.

26. We emphasize the relevance and effectiveness of techniques such as electronic surveillance, undercover operations and controlled deliveries. We call upon States to review domestic arrangements for those techniques and to facilitate international cooperation in these fields, taking full account of human rights implications. We encourage States to exchange experiences of their use.

27. We emphasize the importance of giving the fullest possible protection to sensitive information received from other countries.

The competent authorities of different States should advise each other as to the requirements regarding the disclosure of information in the course of judicial and administrative proceedings, and discuss in advance potential difficulties arising from those requirements.

A transmitting State may make conditions for the protection of sensitive information before deciding whether to transmit it. A receiving State must abide by the conditions agreed with the transmitting State.

28. Building on current cooperative arrangements, the different agencies in our countries will develop their work together in specific law enforcement projects targeted on Transnational Organized Crime. We have formulated practical guidance on project-based action and commend this approach to all States.

Project-based action involves bilateral and multilateral priority setting, targeting, resourcing and assessment of law enforcement operations drawing on the strength of the full range of competent agencies.

29. We welcome the Financial Action Task Force on Money Laundering resolve to extend criminalization of money laundering to other serious offences.

30. States should consider adopting legislative measures for the confiscation or seizure of illicit proceeds from drug trafficking and other serious offences, asset forfeiture, as required, and the availability of provisional arrangements, such as the freezing or seizing of assets, always with due respect for the interests of bona fide third parties. States should also consider the introduction of arrangements for the equitable sharing of such forfeited assets.

31. States should consider implementing measures to detect and monitor the physical transportation of cash and bearer negotiable instruments at the border, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of legitimate capital movements.

32. States should adopt the necessary legislative and regulatory measures to combat corruption, establish standards of good governance and legitimate commercial and financial conduct, and develop cooperation mechanisms to curb corrupt practices.

33. We agree to share information on practical anti-money laundering techniques and to draw on the experience gained to adapt and improve national and international training activities in this area, in conjunction with the action of the Financial Action Task Force on Money Laundering.

34. In order to improve understanding and information on the detection of financial networks linked to Transnational Organized Crime (in particular investments by Transnational Organized Crime), we encourage States to take measures to gather financial information and, as much as possible, facilitate the exchange of such information, including exchanges between law enforcement agencies and regulatory bodies.

35. We urge States to adhere to and fully implement existing relevant multilateral Conventions whose provisions effectively contribute to the fight against all forms of Transnational Organized Crime in particular the Conventions concerning control of illicit drugs.

36. We will keep under review the possibility of supplementing existing Conventions and adopting new instruments, in response to developing needs in the fight against Transnational Organized Crime.

37. We support and encourage the provision and reporting of clear and accessible information on adhesion to and implementation of the main Conventions.

38. In order to avoid wasteful duplication and to ensure that limited resources are used to best effect, we urge International Organisations to coordinate their work programmes and to concentrate their efforts within their areas of competence on activities of practical value to member States.

39. We will work together in the governing bodies of International Organisations whenever possible, in order to give more coherent impetus and coordination to the fight against Transnational Organized Crime.

40. We will seek to ensure that all International Organisations that play an effective role in the fight against Transnational Organized Crime have adequate resources to fulfil their mandate.

We will also examine possibilities for providing appropriate financial resources for specific, practical and viable projects developed by competent International Organisations.

Annex II

METHODOLOGICAL POINTS AND CATEGORIZATION OF DATA

1. Methodological points:

(a) Exploitation of methods to collect the texts other than the issuance of notes verbales, especially taking into account potential burdens imposed on those States whose languages are not working languages of the United Nations or which do not have any texts translated into such languages;

(b) Coordination with the work already done by other United Nations entities or relevant international organizations in order to avoid duplication;

(c) Identification of access points to the depositories of the texts prepared by other United Nations entities and relevant international organizations.

2. Categorization of data:

(a) Substantial provisions:

(i) Participation in a criminal organization (i.e. conspiracy, criminal association);
(ii) Confiscation and provisional measures;
(iii) Money-laundering;
(iv) Sentencing;

(b) Procedural provisions:

(i) Search and seizure;
(ii) Electronic surveillance;
(iii) Undercover operations;
(iv) Controlled delivery;
(v) Immunity;
(vi) Witness protection;
(vii) Mutual assistance and extradition;

(c) Other provisions:

(i) Victim compensation;
(ii) Bank secrecy;
(iii) Reporting of suspicious transactions;
(iv) Border control of proceeds of crime;
(v) Immigration control;
(vi) Control over criminal organizations.

Annex III

DRAFT UNITED NATIONS FRAMEWORK CONVENTION AGAINST ORGANIZED CRIME

The State Parties to the present Convention,

Concerned with the growing threat of organized crime, including the illicit traffic in narcotic drugs and psychotropic substances, money laundering, illicit traffic in arms, nuclear material and explosive devices, motor vehicles, objects of arts,

Concerned also with the increasing threat of organized crime to global security and criminal justice,

Aware that organized crime, in its national and transnational dimensions, destabilizes international relations, including interregional, regional, subregional and bilateral cooperation, by exerting influence on politics, the media, public administration, judicial authorities and the economy by establishing commercial or business-like structures,

Convinced that a flexible and efficient framework for multilateral and bilateral cooperation is required to intensify law enforcement, criminal justice and crime prevention activities of Member States,

Recalling General Assembly resolution 49/159, in which it approved the Naples Political Declaration and Global Action Plan against Organized Transnational Crime,

Recalling further the recommendations of the Regional Ministerial Workshop on Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime,

Bearing in mind the United Nations model legal arrangements, such as the Model Treaty on Mutual Assistance in Criminal Matters, the Model Treaty on the Transfer of Proceedings in Criminal Matters, the Model Treaty on Extradition, the Model Treaty on the transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released and the Model Treaty for the Prevention of Crimes that Infringe on the Cultural Heritage of Peoples in the Form of Movable Property,

Mindful of other existing criminal justice and human rights instruments which provide legal protection to offenders and victims of crime,

Affirming that the matters regulated by the present Convention continue to be governed by the rules and principles of general international law,

Have agreed on the following:

Article 1

1. For the purpose of this Convention "organized crime" means group activities of three or more persons, with hierarchical links or personal relationships, which permit their leaders to earn profits or control territories or markets, internal or foreign, by means of violence, intimidation or corruption, both in furtherance of criminal activity and to infiltrate the legitimate economy, in particular by:

(a) Illicit traffic in narcotic drugs or psychotropic substances, and money laundering, as defined in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 19 December 1988;

(b) Traffic in persons, as defined in the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949;

(c) Counterfeiting currency, as defined in the International Convention for the Suppression of Counterfeiting Currency of 20 April 1929;

(d) Illicit traffic in or stealing of cultural objects, as defined by the United Nations Educational, Scientific and Cultural Organization Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property of 14 November 1970, and the International Institute for the Unification of Private Law Convention on Stolen or Illegally Exported Cultural Objects of 24 June 1995;

(e) Stealing of nuclear material, its misuse or threats to misuse to harm the public, as defined by the Convention on the Physical Protection of Nuclear Material of 3 March 1980;

(f) Terrorist acts;

(g) Illicit traffic in or stealing of arms and explosive materials or devices;

(h) Illicit traffic in or stealing of motor vehicles;

(i) Corruption of public officials.

2. For the purpose of the present Convention, "organized crime" includes commission of an act by a member of a group as part of the criminal activity of such organization.

Article 2

1. Each Contracting State shall make the offences enumerated in article 1 of the present Convention punishable by appropriate penalties which take into account their grave nature.

2. Each Contracting State shall make punishable acts consisting of participation in or association with an organized crime group whose purpose it is to commit offences.

3. Each Contracting State shall take necessary measures to create the possibility of the confiscation of the profits deriving from organized crime.

Article 3

Each Contracting State shall consider establishing in its domestic penal legislation the possibility of criminal liability of corporate persons who derive profits from organized crime or function as a cover for the criminal organization.

Article 4

Each Contracting State shall take legislative measures to recognize, in their domestic law, the previous foreign conviction for offences referred to in article 1 of the present Convention for the purpose of establishing the criminal history of the alleged offender.

Article 5

1. Each Contracting State shall take legislative measures to establish its jurisdiction over the crimes mentioned in article 1 of the present Convention in the following cases:

(a) When the crime is committed in the territory of that State or on board a vessel or aircraft registered in that State;

(b) When the alleged offender is a national of that State. Such jurisdiction shall be independent of the punishability of the act in the place of its commission;

(c) When the alleged offender is present in its territory and it does not extradite him. Such jurisdiction shall be independent of the punishability of the act in the place of its commission.

2. This Convention does not exclude any criminal jurisdiction exercised in accordance with the domestic law.

Article 6

1. The offences mentioned in article 1 of the present Convention shall be deemed to be included as extraditable offences in any extradition treaty between the Contracting States. The Contracting States undertake to include the offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, it shall consider the present Convention as the legal basis for extradition in respect of the offences mentioned in article 1 of this Convention. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. The Contracting States which do not make extradition conditional on the existence of a treaty shall recognize the offences mentioned in article 1 of the present Convention as extraditable offences between them, subject to the conditions provided by the law of the requested State.

4. The Contracting States, subject to their domestic legislation, shall consider simplifying extradition of consenting persons who waive formal extradition proceedings, by allowing direct transmission of extradition requests between appropriate ministries, and extraditing persons based only on warrants of arrests or judgements.

Article 7

1. Each Contracting State shall consider necessary legislative measures, including extradition of its nationals, if the extradition is requested in respect of any offence defined in article 1 of the present Convention.

2. Extradition of a national may be granted on the condition that the sentence pronounced abroad will be executed in the requesting State.

Article 8

1. The offences mentioned in article 1 of the present Convention shall not be considered political offences for the purpose of extradition.

2. Extradition shall not be granted if the requested Party has substantial grounds for believing that a request for extradition has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality or political opinion, or that a person's position may be prejudiced for any of these reasons.

Article 9

Upon being satisfied that the circumstances so warrant, the Contracting State in whose territory the alleged offender is present, shall take a person whose extradition is sought into custody or take other appropriate measures under its domestic law, so as to ensure his presence for the purpose of extradition.

Article 10

1. The Contracting States shall afford one another the widest measure of mutual legal assistance, within the conditions prescribed by the domestic legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences mentioned in article 1 of the present Convention and exercise flexibility in the execution of request for such mutual assistance.

2. Subject to domestic legislation, legal assistance shall include also the delivery of information constituting bank secrecy.

Article 11

1. The Contracting States shall consider entering into bilateral and multilateral agreements including the direct cooperation between their police agencies and common operations in the territory of each Contracting State.

2. The Contracting States shall strengthen cooperation in law enforcement training and crime prevention to facilitate mutual assistance and extradition, such as language training, secondments and exchanges.

3. In the case of existing bilateral and multilateral agreements, the Contracting States shall strengthen efforts to maximize operational and training activities within the International Criminal Police Organization (INTERPOL) and within other relevant bilateral and multilateral agreements or arrangements.

Article 12

1. The Contracting States shall consider entering into bilateral and multilateral agreements on the cooperation between or among criminal justice authorities on the exchange of information concerning all aspects of the criminal activity of persons involved in organized crimes, defined in article 1 of the present Convention, including information from their registers of convicted persons.

2. The Contracting States shall facilitate such exchange of information on the basis of their domestic legislation.

3. The Contracting States shall consider the establishment of a common data bank on organized criminality, including information on the activities of criminal groups and their members and information on convicted persons.

4. The collection of information mentioned above shall be carried out with due regard for the need for legal protection of personnel files, as provided for in the domestic and international provisions.

Article 13

The Contracting Parties shall cooperate in the establishment and implementation of their respective witness protection programmes, including the protection of witness families, in particular by creating the possibility of the settlement of a foreign protected witness in their territories.

Article 14

A Contracting State may adopt more strict or severe measures than those provided by this Convention, if, in its opinion, such measures are desirable or necessary for the prevention or suppression of organized crime.

Article 15

1. For the purpose of examining the progress made by the Contracting States in achieving the realization of the obligations undertaken in the present Convention, these States will provide periodical reports to the Commission on Crime Prevention and Criminal Justice, which will carry out the functions hereinafter provided.

2. The Contracting States undertake to provide such reports within two years of the entry into force of the Convention for the Contracting State concerned, and thereafter every five years.

3. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Commission with a comprehensive understanding of the implementation of the Convention in the country concerned.

4. A Contracting State which has submitted a comprehensive initial report to the Commission need not, in its subsequent reports submitted in accordance with paragraph 1 of this article, repeat basic information previously provided.

5. The Commission may request from the Contracting States further information relevant to the implementation of the Convention.

6. The Commission shall make its recommendations, and submit to the Economic and Social Council reports on its activities, in accordance with existing provisions.

7. The Contracting States shall make their reports widely available to the public in their own countries.

Article 16

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

(a) Intergovernmental and non-governmental organizations, in consultative status with the Economic and Social Council, and other invited multilateral organizations, shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Commission may invite the specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Commission shall transmit, as it may consider appropriate, to the intergovernmental, non-governmental organizations, other multilateral organizations and the specialized agencies, any reports from the Contracting States that contain a request, or indicate a need, for technical advice or assistance, along with the Commission's observations and suggestions, if any, on these requests or indications;

(c) The Commission may recommend to the Economic and Social Council that it request the Secretary-General to undertake on its behalf studies on specific issues relating to the control and prevention of organized crime;

(d) The Commission may make suggestions and general recommendations based on information received pursuant to article 14 of the present Convention. Such suggestions and general recommendations shall be transmitted to any Contracting Party concerned and reported to the Economic and Social Council, together with comments, if any, from the Contracting States.

Article 17

This Convention shall be open to all States for signature from _____ to ______, and thereafter at the Headquarters of the United Nations in New York until _____.

Article 18

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 19

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification, acceptance, approval or accession.

2. For each Contracting State ratifying, accepting, approving or acceding to the Convention after the deposit of the twentieth instrument of such action, the Convention shall enter into force on the thirtieth day after the deposit by such State of that relevant instrument.

Article 20

1. The Contracting State may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the Contracting States, with a request that they indicate whether they favour a conference of Contracting States for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States favour such conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of Contracting States present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of Contracting States.

3. When an amendment enters into force, it shall be binding on those State Parties which have accepted it, other Contracting States still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 21

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by Contracting States at the time of ratification, acceptance, approval or acceding.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 22

A Contracting Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 23

The Secretary-General of the United Nations is designated as the depository of the present Convention.

Article 24

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Annex IV

WORKING GROUP ON THE IMPLEMENTATION OF THE NAPLES POLITICAL DECLARATION AND GLOBAL ACTION PLAN AGAINST ORGANIZED TRANSNATIONAL CRIME AND THE QUESTION OF THE ELABORATION OF AN INTERNATIONAL CONVENTION AGAINST ORGANIZED CRIME: REPORT BY THE CHAIRMAN

1. The working group was established pursuant to Economic and Social Council resolution 1996/27 and its mandate had been determined in paragraph 10 of that resolution. The General Assembly, in its resolution 51/120, requested the Commission on Crime Prevention and Criminal Justice to consider as a matter of priority the question of the elaboration of an international convention against organized transnational crime, taking into account the views of all States on that matter, with a view to finalizing its work on this question as soon as possible. The Commission was also requested to report through the Economic and Social Council to the General Assembly at its fifty-second session on the results of its work on that question. The working group was therefore given the task of assisting the Commission in implementing the above-mentioned requests of the General Assembly.

2. The working group had before it the following documents:

(a) Report of the Secretary-General on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime;[8]

(b) Report of the Secretary-General on the question of the elaboration of an international convention against organized transnational crime;[9]

(c) Report of the informal meeting on the question of the elaboration of an international convention against organized transnational crime, held at Palermo, Italy, from 6 to 8 April 1997;[10]

(d) Report of the Intergovernmental Expert Group Meeting on Extradition, held at Siracusa, Italy, from 10 to 13 December 1996.[11]

3. The working group was also provided with the following documents:

(a) Non-paper of Germany on an alternative solution for a United Nations convention on combating transnational organized crime;

(b) Views of the United States of America as to the most effective means for discussion of the issues of elaboration of conventions;

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[8] E/CN.15/1997/7.

[9] E/CN.15/1997/7/Add.1.

[10] E/CN.15/1997/7/Add.2, annex.

[11] E/CN.15/1997/6 and Corr.1, annex.

(c) The forty recommendations elaborated by the Senior Experts Group on Transnational Organized Crime and endorsed at Lyon, France, from 27 to 29 June 1996;

(d) Non-paper containing a tentative idea of the Japanese delegation in relation to the elaboration of a convention on measures against organized crime.

4. The working group first discussed the question of the elaboration of an international convention against organized transnational crime. The working group was of the view that its contribution would be most useful to the Commission if it would consider the scope and content of such a convention, rather than engage in a drafting exercise, which would be outside the mandate given by the Council and the Assembly and would require significantly more time than that available. The working group felt that organized crime presented grave global dangers to development and security and that the challenges it posed were becoming greater with time. In determining the scope and content of such a convention, the international community could draw on the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[12] but should be able to come up with new and more innovative and creative responses.

5. The working group recognized that it was desirable to develop a convention that would be as comprehensive as possible. In this connection, several States indicated that their remaining reservations on the effectiveness and usefulness of a convention were contingent upon its scope of application and the measures for concerted action which such an instrument would include. Several States stressed the importance they attached to the nature of a convention as a framework instrument. One difficult issue would be arriving at an acceptable definition of organized crime. It was indicated, however, that that issue was not insuperable, especially in the presence of a strong and sustained political will. Several States were of the view that the definition was not necessarily the most crucial element of a convention and that the instrument could come into being without a definition of organized crime. In this connection, it was also suggested that the phenomenon of organized crime was evolving with such rapidity that a definition would limit the scope of application of a convention, by omitting activities which criminal groups might engage in. Other States felt that the absence of a definition would send the wrong signal regarding the political will and commitment of the international community. In addition, avoiding the issue would eventually create problems regarding the implementation of a convention. In view of all this, concerted efforts to arrive at a solution should be made. There were several very important advances made at the regional level, where the matter of some of the constituent elements of a workable definition had been satisfactorily resolved. One example was the solution found for defining participation in organized criminal groups, used in the European convention on extradition. The problem of definition could be solved by looking at each of its elements separately. It was suggested that a first step towards a definition might be to use the definitions of offences contained in other international instruments. It was agreed that the work required in connection with the definition could not be expected of the working group, but should be undertaken by governmental experts at a future time. There was also discussion about whether in elaborating the definition, the focus should be on the transnational aspects of organized crime or on organized crime in general. It was pointed out that the mandate of the Commission was related to organized transnational crime but that the issue required further serious consideration in the context of determining the overall scope of a convention.

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[12] *Official Records of the United Nations Conference for the Adoption of a Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

6. In the context of the discussion on whether such a convention should include a list of offences, some States expressed their support for the inclusion of terrorist acts in such a list. Many States were of a contrary view, recalling the initiatives currently under way in the United Nations and other forums on terrorism and the conclusions of the Commission at its fifth session.

7. The working group agreed that it would be useful to focus on widely accepted constituent elements of organized crime. In the discussion that ensued, the elements identified included some form of organization; continuity; the use of intimidation and violence; a hierarchical structure of groups, with division of labour; the pursuit of profit; and the purpose of exercising influence on the public, the media and political structures.

8. The working group decided that the best way to proceed for the purpose of advancing the issue was to seek common ground, utilizing as many previous contributions as possible and building on the positive experience and valuable work done at other forums, such as the European Union and the Senior Experts Group on Transnational Organized Crime. The draft United Nations framework convention against organized crime[13] was a useful point of departure and a good basis for further work. In this connection, the working group decided to discuss matters related to international cooperation in criminal matters that would form an essential part of an international legally binding instrument. The overriding concern would be to equip the international community with an effective instrument to strengthen action against organized crime.

9. The working group agreed that extradition was crucial to international cooperation against organized crime and, as such, it would form a central component of such a convention. A number of States indicated that the extradition of nationals presented several legal and constitutional problems. While some States were in the process of studying the matter in depth, with a view to finding more efficient solutions and improving international cooperation, it would be difficult for them to comply with a provision envisaging extradition of nationals. It was consequently deemed important to incorporate in a convention a more detailed provision regarding the application of the principle *aut dedere aut judicare*. Since there were a number of countries where extradition of nationals was possible and it was also believed that a trend in that direction might develop in the future, it was agreed that the provision of article 7 of the draft United Nations framework convention was a good basis for discussion and should be retained. It was also agreed that the option of extraditing nationals should be left open, while specifying that extradition would be governed by national constitutional and legal provisions. It was suggested that in finding an acceptable solution to this matter, the formula contained in the draft convention on terrorist bombings regarding extradition could be relied upon. Inspiration could also be drawn from the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.[14] In addition, reference was made to article 6 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, which could be used as a model to arrive at a more comprehensive extradition regime.

10. On the question of corporate criminal liability (contained in article 3 of the draft United Nations framework convention), several States indicated that the concept was still not reflected in their legislation. In those States, criminal liability was personal and corporate entities could be held accountable only under civil and administrative law. Even where the concept of corporate criminal liability had begun to be introduced, such liability was attached to the person of the executive responsible for the management of the corporate entity. It was explained that the problem was one of legal tradition and philosophy, while it was recognized that

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[13] A/C.3/51/7, annex.

[14] S/25704 and Corr.1, annex.

corporate criminal liability was a powerful deterrent, particularly in view of the tendency of criminal groups to operate using corporate entities, either infiltrated or set up for the purpose of masking the nature of their illicit activities. The issue of corporate criminal liability was considered important but it required further clarification and elaboration in order to take into account the varying legal traditions of countries.

11. Regarding the recognition of foreign convictions (contained in article 4 of the draft United Nations framework convention), it was indicated that there were a number of issues that required clarification and further work. It was clarified that the term conviction was used in the sense of a finding of guilt and that the article tried to capture the essence of and build upon the concept reflected in paragraph 5 (h) of article 3 of the 1988 Convention. While the issue of prior criminal history was deemed important, because of its potential usefulness to the expeditious judicial processing of organized crime cases, it was necessary to discuss in detail the modalities for the exchange of the relevant information and the weight to be given to previous convictions in the framework of each jurisdiction. It was also indicated that the matter was directly related to the scope of application of such a convention, particularly regarding substantive law. It was important to formulate a provision on this issue that would ensure avoidance of problems related to double jeopardy or to offences existing in one jurisdiction but not in another.

12. On police cooperation (article 11 of the draft United Nations framework convention), the issue of joint police operations merited further discussion, as it created a number of concerns for several countries. The desirability of closer cooperation between law enforcement agencies had been expressed in the Naples Political Declaration and Global Action Plan, but it was deemed important to stress that such cooperation would be pursued in accordance with national legislation. Similar provisions were included in the 1988 Convention and could be useful to the discussion of this question. With regard to paragraphs 2 and 3 of article 11, it was pointed out that the concept they contained was valid, but further work would be necessary in specifying modalities for application, especially in the context of a legally binding instrument such as a convention.

13. Regarding article 12 of the draft United Nations framework convention, it was agreed that the idea was very important, in view of the essential role reliable information played in action against organized crime. The provision, however, required considerable further work because the issue of databases involved a number of important matters, such as accessibility, protection of data, and safeguards related to the protection of privacy, in addition to costs for the creation and maintenance of such databases. All these issues needed to be resolved in a manner acceptable to all, while retaining the usefulness of a database.

14. There was general acceptance of the importance of witness protection (reflected in article 13 of the draft United Nations framework convention). Some States took the opportunity to indicate their intention to establish witness protection programmes, while others advised caution in approaching the matter, because of the risks associated with this mechanism, which related to the social conditions prevailing in countries and the possibility of diminished credibility of certain witnesses.

15. The working group then discussed the issue of mutual assistance (article 10 of the draft United Nations framework convention), which was deemed one of the most important cooperation mechanisms to feature in a convention against organized crime. Article 10 was similar to the provisions of other United Nations instruments, but in view of the more comprehensive nature of the proposed convention, the provisions on mutual assistance should be more detailed and more innovative. The 1988 Convention could be used as a source of inspiration in order to arrive at the level of detail that was necessary. In this connection, reference was also made to the report of the informal meeting held at Palermo, which had discussed this issue extensively and included material for further consideration.

16. The working group agreed that considerable work was required on the issue of the convention. For this purpose, it proposed that an open-ended intergovernmental inter-sessional group of experts should be established to consider all pending proposals related to the issue of conventions, as well as all elements thereof and appropriate cooperation modalities and mechanisms.

17. The working group discussed and endorsed the proposals of the Secretary-General on the follow-up action for the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime. The working group expressed its support for the maintenance and expansion of the central repository on national legislation and other information and data related to organized transnational crime. It was suggested that the Secretariat should make efforts to identify methods for collecting information and legislative texts rather than merely addressing requests to States in the form of notes verbales. Concern was expressed regarding the resources necessary to undertake the activities required for follow-up action. In this connection, the importance attached to practical action to foster the implementation of the Naples Political Declaration and Global Action Plan was reiterated.

Annex V

VIEWS OF THE UNITED STATES OF AMERICA AS TO THE MOST EFFECTIVE MEANS FOR DISCUSSION BY THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE AT ITS SIXTH SESSION OF THE ISSUE OF ELABORATION OF CONVENTIONS

1. The United States of America considers it very important that discussion of all proposals for elaboration of multilateral conventions to combat criminal conduct take place in the working group of the Commission on Crime Prevention and Criminal Justice devoted to the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, in particular, the question of the elaboration of an international convention against organized crime. Such a discussion will be useful as a means for stimulating thought on the extent to which the various proposals can and should be incorporated into a single instrument. In addition, it will enable delegations to focus on the priority to be set concerning the criminal conduct governed by these different proposals.

2. In addition to Poland's proposal for a United Nations framework convention on combating organized crime,[15] the following five proposals for multilateral conventions are either the subject of draft resolutions to be considered at this session, or have been broached in informal discussions among member States: Argentina's proposal for a convention to combat trafficking in children; the recommendation of the Buenos Aires expert group on combating corruption; a possible multilateral convention on firearms;[16] a possible convention on trafficking in illegal migrants;[17] and a possible convention on theft of motor vehicles.[18] However, Poland's

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[15] A/C.3/51/7, annex.

[16] Mexico has introduced a proposal for such a convention at the Organization of American States.

[17] It is the understanding of the United States delegation that a member of the Western European and Other Group is exploring the possibility of introducing such a proposal.

[18] Poland has introduced a resolution calling for the adoption of a model treaty on combating this form of criminality.

proposed framework convention on organized crime is intended to cover all of the other proposals in whole or in part by including, under article 1, trafficking in persons, corruption of public officials, illicit trafficking or stealing of arms and illicit trafficking or stealing of motor vehicles. Thus, these or any other potential single-issue conventions may be to some degree duplicative of Poland's proposal and, if consensus is reached on inclusion of such types of criminality in a framework convention on organized crime, it may subsequently be unnecessary to negotiate further instruments.

3. Moreover, as more fully set forth in the appendix to the present annex,[19] certain types of cooperation mechanisms cannot be dispensed with in combating organizations that engage in multiple forms of criminality; such mechanisms include law enforcement information exchange, training and technical assistance, mutual assistance, asset seizure and forfeiture, witness protection, extradition and harmonization of substantive criminal laws. The international community may decide that a single instrument would best ensure that all of these areas are addressed with sufficient consistency, that limited resources for negotiating conventions and fighting organized crime are used most efficiently and that the fight against organized crime is carried out in a comprehensive and logical fashion. If so, it would be inadvisable to continue to discuss the elaboration of other instruments separately.

4. Finally, discussion of the merits of all potential instruments in the working group will be useful for the purpose of comparing the gravity of the various forms of criminality and determining which aspects constitute the most significant transnational criminal problems. The discussion of the level of prioritization that should be given to each form of criminality may assist the Commission in determining the extent to which other multilateral conventions should be pursued separately from a framework convention on organized crime, or whether they should be pursued at all.

Appendix

IMPLEMENTATION OF RECOMMENDATIONS 35 AND 36 OF THE SENIOR EXPERTS GROUP

RECOMMENDATIONS FOR COMBATING TRANSNATIONAL ORGANIZED CRIME: THE SUPPLEMENTATION OF EXISTING MULTILATERAL CONVENTIONS OR ADOPTION OF NEW CONVENTIONS TO ASSIST IN THE FIGHT AGAINST TRANSNATIONAL ORGANIZED CRIME

Introduction

1. Recommendation 35 of the Senior Experts Group on Transnational Organized Crime calls for States to adhere to and implement relevant existing multilateral conventions whose provisions contribute to the fight against all forms of transnational organized crime, while recommendation 36 contemplates a review of the feasibility of updating existing conventions and adopting new instruments in order to enhance the ability of States to fight transnational organized crime.

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[19] The attached appendix was previously submitted to stimulate discussion in the Senior Experts Group on Transnational Organized Crime on means of implementing recommendations 35 and 36 of its forty recommendations for combating transnational organized crime.

2. Among the existing conventions that the Senior Experts Group has catalogued for the purpose of considering whether updating is feasible are: the Slavery Convention (1926) as amended by the 1953 Protocol;[20] the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956);[21] the International Convention for the Suppression of Counterfeiting Currency (1929); the International Forced Labour Convention (1930);[22] the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949);[23] the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1971);[24] and the international convention on mutual administrative assistance for the prevention, investigation and repression of customs offences (1977).[25]

3. In addition, Poland introduced at the fifty-first session of the General Assembly a draft United Nations framework convention against organized crime.[26] The proposal by Poland raises issues regarding the feasibility of adopting a single convention to combat transnational organized crime, in contrast with the updating of existing instruments or adoption of a number of new instruments each dealing with a separate type of criminal conduct.

4. Various options available for using multilateral instruments to fight transnational organized crime are briefly analysed below. Section I discusses the above-listed existing conventions, outlining some of the modifications that would be required to effectively update them to address contemporary phenomena of transnational organized crime. Section II examines additional multilateral instruments that could be adopted in order to combat transnational organized crime. Finally, section III contains a discussion of the potential benefits and drawbacks arising from the elaboration of a single consolidated framework convention on organized crime.

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[20] United Nations, *Treaty Series*, vol. 212, No. 2861.

[21] Ibid., vol. 266, No. 3822.

[22] *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.93.XIV.1 (vol. I, Part 1)).

[23] General Assembly resolution 317 (V) of 2 December 1949.

[24] United Nations, *Treaty Series*, vol. 823, No. 11806.

[25] The Senior Experts Group also included in its inventory of main international conventions dealing with organized crime the Single Convention on Narcotics of 1961, (United Nations *Treaty Series*, vol. 520, No. 7515), that Convention as amended by the 1972 Protocol (United Nations *Treaty Series*, vol. 976, No. 14152), the Convention on Psychotropic Substances of 1971 (United Nations *Treaty Series*, vol. 1019, No. 14956) and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (*Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5). Given that the 1988 Convention is one of the most up-to-date and effective conventions dealing with organized crime and that it effectively supplements the 1961 Convention and the 1971 Convention, the merits of updating any of these instruments are not discussed below.

[26] A/C.3/51/7.

I. UPDATING EXISTING INSTRUMENTS

A. Slavery Convention (1926) as amended by the 1953 Protocol and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956)

5. The Slavery Convention as amended by the 1953 Protocol defines slavery and slave trading, obligating States parties to take various actions, including criminalization, to suppress those practices. The Supplementary Convention defines a number of practices akin to slavery (including debt bondage, serfdom, marriage practices exploitative of women's labour and exploitation of children's labour by their parents or guardians); it also obligates States parties to abolish those practices, criminalize certain specified conduct integral to the perpetuation of slavery and the slave trade and cooperate with each other in carrying out the purposes of the Convention. The conventions have been widely ratified.

6. Neither the Slavery Convention nor the Supplementary Convention as presently drafted deal specifically with transnational organized crime, nor can they readily be interpreted to impose an obligation upon States parties to criminalize such related manifestations of modern organized crime as the exploitation of illegal immigrants by organized criminal groups that have smuggled them across international boundaries, the use by criminal groups of compulsion as part of their perpetuation of the international prostitution trade or the compelling of minors to participate in international pornography rings. However, amendment of these instruments may be of assistance in combating these forms of trafficking in persons.[27]

7. Effective broadening of these conventions will require States to reach agreement both on the need to criminalize a number of additional classes of conduct and on general definitions of those offences. In addition, since both the Slavery Convention and the Supplementary Convention lack specific cooperation mechanisms to suppress such conduct between national law enforcement authorities, supplementation would require the drafting of a number of such mechanisms.[28]

8. On balance, effective modernization would appear to require negotiation of a significant number of new provisions. Negotiating a supplemental instrument could also be complicated if some States regarded the occasion as an opportunity to reopen the debate on issues resolved at the time the conventions were originally concluded. Given these factors, the Senior Experts Group should weigh whether supplementation would be preferable to the elaboration of a new instrument or instruments to combat these forms of criminal conduct.

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[27] It may be that these and other similar activities engaged in by organized criminal groups also could be appropriately included under the International Forced Labour Convention or the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, both of which are discussed below.

[28] In addition to cooperation measures frequently provided for in more modern multilateral instruments, such as designating covered offences as extraditable between States parties, non-application of the political offence doctrine and the imposition of general obligations to cooperate, the Senior Experts Group recommended a number of additional mechanisms for consideration, including: providing mutual assistance notwithstanding the absence of dual criminality (recommendation 3); gathering evidence in the manner sought by the requesting State (recommendation 4); strategic coordination of prosecutions and mutual assistance measures where a criminal activity occurs in several countries (recommendation 7); allowing for the possibility of transfer or conditional extradition of nationals (recommendation 10); exchanges of information and personnel between law enforcement agencies of different countries (recommendations 11, 12, 21, 23-28 and 34); witness protection arrangements (recommendations 13-15); use of investigative techniques such as electronic surveillance, undercover operations and controlled deliveries (recommendation 26); confiscation of proceeds of crime (recommendation 30); and monitoring of financial instruments (recommendations 31 and 34).

B. International Forced Labour Convention (1930)

9. The International Forced Labour Convention limits the conditions under which "forced or compulsory labour" can be required and obligates States parties to suppress and criminalize those forms of compelled labour not sanctioned by the Convention.

10. Although the exploitation of compelled labour by criminal groups described in section I.A above may be violative of the terms of the International Forced Labour Convention in its present form, few States parties have established these forms of exploitation as discrete offences or have provided for enhanced penalties to deter sophisticated criminal groups from committing such offences. Thus, to be an effective means of suppressing the exploitation of persons controlled by organized criminal groups, the Convention would have to be amended accordingly.

11. As in the case of the slavery conventions, given the need to define and punish additional classes of criminal conduct and to include provisions related to law enforcement cooperation, adoption of a supplemental or amended instrument may require as extensive an effort as the elaboration of a separate new instrument or instruments.

C. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)

12. The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others obligates States parties to criminalize the procuring of persons to engage in prostitution and other conduct integral to the propagation of prostitution. It contains more extensive provisions for law enforcement cooperation than the Slavery Convention or the International Forced Labour Convention, including provisions requiring: (a) covered offences to be considered extraditable between States parties; (b) prosecution of offenders by a State party that declines to extradite on the basis of the offender's nationality; (c) cooperation by States parties (subject to domestic law) in the execution of letters of request regarding covered offences; (d) establishment of central authorities to coordinate implementation of the Convention and cooperate with other States; and (e) sharing of information regarding offences and offenders between States parties.

13. Effective updating of this Convention could prove difficult, given that a significant number of States have not ratified it. In any case, substantial modification would appear to be required to ensure the broad criminalization of such phenomena as the exploitation of minors in conjunction with the production of pornographic materials or sex tourism and to ensure that States parties are obligated to impose suitably enhanced punishment on participants in organized criminal schemes to engage in such conduct. Moreover, although this instrument focuses to a greater extent on cooperation mechanisms than either the Slavery Convention or the International Forced Labour Convention, many additional forms of cooperation recommended by the Senior Experts Group as useful in fighting transnational organized crime are not presently included and a number of them could presumably be inserted.[29]

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[29] For a more complete inventory of potential cooperation mechanisms that could be provided for, see footnote 28, above.

D. International Convention for the Suppression of Counterfeiting Currency (1929)

14. The International Convention for the Suppression of Counterfeiting Currency obligates States parties to criminalize counterfeiting or alteration of domestic or foreign currency, as well as the distribution of counterfeit or altered currency. It also provides for: (a) confiscation of such currency; (b) covered offences to be considered extraditable between States parties; (c) prosecution of offenders by State parties that decline to extradite on the basis of the offender's nationality; (d) cooperation between States parties (subject to domestic law) in the execution of letters of request regarding covered offences; (e) establishment of central authorities to coordinate implementation of the Convention and cooperate with States; and (f) sharing of information between States parties regarding offenders and evidence of offences.

15. The application of this instrument is limited in scope to counterfeit or altered currency. Significant supplementation or the adoption of new instruments would be required to address such issues of concern as counterfeiting or alteration of credit cards, electronic transfers and other negotiable instruments and the need to provide for enhanced cooperation mechanisms in combating such criminal conduct.

E. Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1971)

16. The Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property obligates States parties to suppress illicit traffic in archaeological, historical, artistic and other property designated by States as being of particular cultural value, without explicitly requiring criminalization of proscribed conduct. The Convention also provides for, *inter alia*, confiscation and return of cultural property to States parties from which it was removed and the designation of authorities for implementation of the Convention.

17. Effectively updating this Convention could prove difficult in practice, for a significant number of States have not ratified it. In addition, given that it contains no explicit criminalization or law enforcement cooperation requirements, modernization would appear to entail as much effort as would the creation of new instruments governing other related areas.

F. International convention on mutual administrative assistance for the prevention, investigation and repression of customs offences (1977)

18. The international convention on mutual administrative assistance for the prevention, investigation and repression of customs offences provides a broad framework for joint investigation, exchanges of information and other mutual assistance between States parties in connection with violations of customs laws, including smuggling of narcotics, cultural property and other contraband. It does not obligate States to criminalize particular forms of conduct.

19. The Convention has been ratified by three members of the political group of eight (P-8) and 31 other States. Although additional States have expressed an interest in ratifying the Convention since it was amended in 1995 to permit contracting parties to make reservations, the permitting of reservations may hamper any effort to achieve broad implementation. Nonetheless, many of the forms of cooperation set forth in the Convention are useful mechanisms for international law enforcement and can serve as examples of cooperation mechanisms that might be drafted for insertion in other instruments governing transnational smuggling.

II. ADOPTION OF INSTRUMENTS ADDRESSING OTHER FORMS OF CRIMINAL CONDUCT

20. In addition to supplementing and modernizing existing conventions, Senior Experts Group recommendation 36 calls for consideration of the adoption of new instruments to respond to developing needs in the fight against transnational organized crime. In a number of other recommendations, the Senior Experts Group has already identified additional forms of criminal conduct for which there is a need for a concerted international law enforcement response to the infiltration of organized crime. Similar expressions of concern have been made in other international forums and by various States in their individual efforts to combat transnational organized crime. Some of the areas in which the need for action may be particularly acute and regarding which the Senior Experts Group may wish to evaluate the utility of adopting a new instrument or instruments are as follows:

(a) Extortion and other violent crimes carried out by organized groups for profit;

(b) Bribery and other corrupt practices;

(c) Smuggling of and trafficking in nuclear materials for weapons of mass destruction;

(d) Intellectual property violations;

(e) Money-laundering;

(f) Crimes involving computers and other advanced technologies;

(g) Illicit trafficking in firearms; and

(h) Auto theft.

21. Such an evaluation will require weighing such factors as the likelihood of elaborating an instrument that will enjoy widespread acceptance within the international community, the likely degree of effectiveness the instrument will have in aiding the suppression of the targeted conduct and the commitment of time and resources that will be required to elaborate a series of instruments governing these types of criminal conduct.[30]

III. ADOPTION OF A SINGLE INSTRUMENT ON TRANSNATIONAL ORGANIZED CRIME

22. Consideration could also be given to the alternative approach of adopting a single integrated instrument on various forms of criminal conduct engaged in by transnational groups. As previously stated, Poland introduced such a draft convention at the fifty-first session of the General Assembly.

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[30] A supplemental or alternative approach to dealing with some of the areas listed above could be the development and widespread dissemination of model legislation, accompanied by multilateral and bilateral technical assistance to facilitate enactment and enforcement of the new laws.

23. The major advantage of a single instrument creating obligations to criminalize and cooperate in combating a number of categories of conduct is the advantage it offers in terms of preserving time and resources over the negotiation of a series of new or supplemental instruments, each addressing a limited class of criminal conduct. Since each separate convention would likely contain a number of similar (if not identical) provisions, for example with regard to extradition of fugitives, legal assistance and other cooperation mechanisms, negotiation of a single instrument could be expected to save considerable time and avoid needless renegotiation of such common provisions. In addition, the promulgation of a single instrument would appear useful to arriving at an integrated response to particularly serious forms of transnational organized crime, since specialists in a number of law enforcement disciplines would collaborate in devising an effective unified strategy for cooperation in combating these phenomena and since a single secretariat administering the convention would be more easily able to identify and correct practical problems arising in the implementation of the strategy.

24. The structure of the convention itself could take several possible forms. One approach could be for it to address a specific list of offences of the type set forth in section II, above. Another approach might be to draft a convention that, like the proposal by Poland, seeks to define the term "organized crime", and to include specific types of conduct under its rubric.

25. The former approach, by virtue of being less complex, may enjoy some advantages over the latter. Initially, it may be difficult to arrive at a definition of "organized crime" that enjoys widespread acceptance. As illustrated in the inventory of documents prepared by the Senior Experts Group, numerous different definitions of the term "organized crime" have been devised. Given the great diversity among modern criminal groups, reaching a single meaningful definition will likely prove elusive and may interfere with the successful conclusion of the convention. Moreover, great care would have to be taken to ensure that the definition of "organized crime" did not inadvertently legitimize actions by undemocratic Governments to suppress legitimate political opposition.

26. In addition, a number of States may wish the definition of organized crime to encompass terrorism,[31] leading to problematic results. For example, the inclusion of terrorism may lead to an effort to define it more precisely, a task that will be extremely difficult given the traditional divide between those States that consider acts of violence carried out by "national liberation movements" to be permissible and those that wish to proscribe such conduct. The effort to define terrorism will thus divert attention from other issues, and will ultimately not be conducive to achieving consensus. Inclusion of terrorism may also result in duplication of provisions contained in the significant number of existing instruments aimed at combating terrorism.[32]

27. Even if no effort is made to define these terms, there may be some difficulty in reaching agreement on the list of conduct to be proscribed under the convention. The convention may be seen by some States as an opportunity to seek inclusion of modes of criminality as to which there can be at best a marginal claim that they constitute a significant transnational criminal problem. For example, a small number of States have called for conventions to combat illicit international adoption, trafficking in body parts or racial hatred. However, any effort to broaden the convention too greatly would divert focus from types of criminality that need to be addressed most urgently and could also make it more difficult to identify appropriate cooperation mechanisms for combating the conduct proscribed by the convention.

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[31] For example, Poland's proposal includes "terrorist acts" as a manifestation of organized crime.

[32] The P-8 Senior Expert Group on Terrorism is also currently considering a United States proposal for a United Nations convention for the suppression of terrorist bombings.

28. The United States has prepared a discussion draft of a convention for the suppression of transnational organized crime, illustrating how a convention adhering to the recommendations of the Senior Experts Group could be structured. It is hoped that consideration of that document, together with the Polish proposal, may be useful to the discussion of this issue.

29. It is conceivable that there are other approaches that might be viable in this area, including the elaboration of a single instrument addressing a much more limited list of criminal activities than that described either in the discussion draft of the United States, presented below, or in the proposal by Poland, on which there is clear consensus that immediate criminalization and enhanced cooperation are required.

Draft convention for the suppression of transnational organized crime

The States Parties to this Convention,

Deeply concerned about the threat posed by the rapid development of transnational organized crime,

Being convinced that the rapid growth and geographical extension of transnational organized crime is a major concern of all countries and that it calls for a concerted response from the international community,

Desiring to conclude an effective international convention directed specifically against serious organized transnational crime,

Have agreed as follows:

Article 1

OFFENCES AND SANCTIONS[33]

1. Each State Party shall make punishable by appropriate penalties that take into account their grave nature,[34] the following conduct:

[Insert definition of transnational organized crime, or offences covered by this convention]

2. The provisions of this article shall not affect the obligations regarding the criminalization of offences pursuant to any other multilateral treaty.

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[33] Title used in the 1988 Convention for the article defining the crimes covered by the Convention.

[34] Many of the offences on the list may already be punished under the laws of States parties, but without enhanced punishment if a part of organized criminal activity. It may be necessary to draft additional language to ensure such enhanced punishment.

Article 2

ESTABLISHMENT OF JURISDICTION

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 1 when the offence is committed in the territory of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) The alleged offender is a national of that State;

(b) The offence was committed against a national of that State; or

(c) The offence has substantial effects in that State.

3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite or transfer that person for trial pursuant to article 4, paragraph 6, to any of the States Parties that have established their jurisdiction in accordance with paragraph 1 or 2 of this article.

4. This Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

5. The provisions of this article shall not affect the obligations with regard to the establishment of jurisdiction over offences pursuant to any other multilateral treaty.

Article 3

EXTRADITE OR PROSECUTE

1. The State Party in the territory of which the offender or the alleged offender is found, if it does not extradite that person or transfer that person for trial pursuant to article 4, paragraph 6, shall be obliged, upon request of the State Party seeking extradition or transfer, in cases where article 2 applies without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 1 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory of which that person is present.

Article 4

ADDITIONAL REQUIREMENTS

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its laws, take that person into custody or take other measures to ensure that person's presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. Such State shall immediately make a preliminary inquiry, in accordance with its own laws.[35]

2. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

(a) To communicate with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to establish such communication or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) To be visited by a representative of that State.[36]

3. The rights referred to in paragraph 2 of this article shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 1 of this article are intended.

Article 5

RULES RELATING TO EXTRADITION[37]

1. The offences set forth in article 1 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may at its option consider this Convention as a legal basis for extradition in respect of the offences set forth in article 1. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 1 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

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[35] International Convention against the Taking of Hostages (General Assembly resolution 34/146, annex, of 17 December 1979), article 6, paragraph 1.

[36] Vienna Convention on Consular Relations (1963) (United Nations, *Treaty Series*, vol. 596, No. 8638), article 36.

[37] Senior Experts Group recommendation 10.

4. The offences set forth in article 1 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.[38]

5. For purposes of extradition between the States Parties, none of the offences set forth in article 1 shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives.

6. If a State Party denies extradition to another State Party for an offence set forth in article 1 because the person sought is a national of the Requested Party, the Requested Party shall, upon request of the Requesting Party, transfer the person to the Requesting Party for trial or other proceedings and the person transferred shall be returned to the Requested Party to serve any sentence imposed in the Requesting Party as a result of the trial or proceedings for which transfer was made.

7. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent necessary to give effect to the provisions of this Convention.

Article 6

MUTUAL LEGAL ASSISTANCE

1. States Parties shall afford one another the greatest measure of assistance in connection with proceedings brought in respect of the offences set forth in article 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them or pursuant to domestic law.[39]

3. For offences established in accordance with this Convention, a State Party shall not decline to render mutual legal assistance on the ground of bank secrecy or on the ground that there is an absence of dual criminality.[40]

4. States Parties shall adopt measures sufficient to enable a person in the custody of one State Party whose presence in another State Party is requested for purposes of assistance under this Convention to be transferred if the person consents and if the competent authorities of both States agree. For purposes of this paragraph:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise authorized by the State from which the person was transferred;

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[38] Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (United Nations, *Treaty Series*, No. 29004), article 11, paragraph 4.

[39] Given the potentially broad scope of this Convention and the possibility that it will be open to ratification or accession by any State, narrower legal assistance obligations of the kind set forth here may be appropriate.

[40] Senior Experts Group recommendation 3; see the 1988 Convention, article 7, paragraph 5.

(b) The State to which the person is transferred shall return the person to the custody of the State from which the person was transferred as soon as circumstances permit or as otherwise agreed by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person; and

(d) The person transferred shall receive credit for service of the sentence imposed in the State from which he was transferred for time served in the custody of the State to which he was transferred.

5. In order to ensure the protection of witnesses, States Parties shall, on request, limit disclosure of the addresses or identifying particulars of persons who testify. States Parties shall also adopt measures to permit, upon request, persons to testify by telecommunications or video link or use other modern technology in order to provide testimony to the prosecuting State.[41]

Article 7

CONFISCATION[42]

1. States Parties shall adopt such measures as may be necessary to enable confiscation of:

(a) Proceeds derived from offences set forth in article 1 or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or intended for use in offences set forth in article 1.

2. States Parties shall adopt such measures as may be necessary to enable the identification, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. The State Party that has custody over proceeds or instrumentalities of offences shall dispose of them in accordance with its laws. A Party may transfer all or part of such assets, or the proceeds of their sale to another Party, to the extent permitted by the laws of the transferring Party and upon such terms as it deems appropriate.

4. The provisions of this article shall not be construed to prejudice the rights of third parties.

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[41] Senior Experts Group recommendation 15.

[42] Senior Experts Group recommendation 30.

Article 8

TRANSFER OF PROCEEDINGS[43]

States Parties shall give consideration to transferring to one another proceedings for criminal prosecution of offences established in accordance with this Convention in cases where such transfer is considered to be in the interests of a proper administration of justice.

Article 9

OTHER FORMS OF COOPERATION AND ASSISTANCE[44]

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat offences set forth in this Convention. Each State Party shall, in particular, adopt effective measures:

(a) For the purposes of carrying out the cooperation and assistance provided for under this Convention, including the making and receiving of requests for cooperation and assistance, to designate a central authority that shall communicate directly with the central authority of other States Parties;[45]

(b) To establish and maintain channels of communication between their competent authorities, agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of the offences set forth in this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;[46]

(c) To cooperate with one another in conducting inquiries, with respect to offences set forth in this Convention, concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in the offences set forth in this Convention; and

(ii) The movement of proceeds or property derived from the commission of such offences;

(d) In appropriate cases and if not contrary to domestic law, to establish joint teams, taking into account the need to protect the security of persons and operations, in order to carry out the provisions of this paragraph. Officials of any State Party participating in such teams shall act as authorized by the appropriate authorities of the Party in whose territory the operation is to take place; in all such cases, the States Parties involved shall ensure that the sovereignty of the Party on whose territory the operation is to take place is fully respected;

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[43] 1988 Convention, article 8.

[44] 1988 Convention, article 9.

[45] Senior Experts Group recommendation 5.

[46] Senior Experts Group recommendation 5.

(e) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(f) To establish arrangements for[47] electronic surveillance, undercover operations and controlled deliveries with a view to gathering evidence and taking legal action against persons involved in the offences set forth in this Convention;[48]

(g) To provide protection for persons who have given or agreed to give information or evidence, or who participate or who have agreed to participate in an investigation or prosecution of an offence established in accordance with this Convention, and for the relatives and associates of such persons who require protection because of risks to the security of the person. States Parties should consider, as appropriate, reciprocal arrangements for the protection of witnesses and other endangered persons;[49]

(h) To permit the competent authorities, when considering punishment, to consider as a mitigating factor the extent of cooperation provided by an accused in the investigation and prosecution of other persons or the ability and intention of the accused to provide such cooperation; and

(i) To facilitate effective coordination between their competent agencies and services and to promote the exchange of personnel and other experts, including the posting of liaison officers.

Article 10

LAW ENFORCEMENT TRAINING[50]

1. Each State Party shall, to the extent necessary, initiate, develop or improve a specific training programme for its law enforcement personnel, including prosecutors and investigating magistrates, and other personnel charged with the suppression of the offences set forth in this Convention. Such programmes shall deal, in particular, with the following:

(a) Methods used in the detection and suppression of the offences set forth in this Convention;

(b) Techniques used by persons suspected of involvement in offences set forth in this Convention;

(c) Detection and monitoring the movements of proceeds, property and instrumentalities derived from offences set forth in this Convention and methods used for the transfer, concealment or disguise of such proceeds, property and instrumentalities;

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[47] This is taken from the 1988 Convention, article 1. An alternative construction could be based on the Inter-American Convention against Corruption, article 9 (E/1996/99): "In order to foster the development and harmonization of their legislation, the Parties view as desirable, and undertake to consider, establishing as measures permitted under their laws ..."

[48] Senior Experts Group recommendation 26.

[49] Senior Experts Group recommendations 13, 14 and 15.

[50] 1988 Convention, article 9, paragraphs 2 and 3, and Senior Experts Group recommendation 11.

(d) Collection of evidence; and

(e) Modern law enforcement techniques.

2. States Parties shall assist one another to plan and implement research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and, to this end, shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and stimulate discussion on problems of mutual concern.[51]

3. States Parties shall promote other techniques for mutual education that will facilitate extradition and mutual legal assistance, including language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.[52]

Article 11

TRANSPARENCY OF TRANSACTIONS[53]

1. States Parties shall implement measures to detect and monitor the physical transportation of cash and bearer negotiable instruments at the border, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of legitimate capital movements.

2. In order to improve understanding and information on the detection of financial networks linked to transnational organized crime, States Parties shall take measures to gather financial information and, as much as possible, facilitate the exchange of such information, including exchanges between law enforcement agencies and regulatory bodies.

Article 12

OTHER FORMS OF COOPERATION

1. States Parties shall cooperate closely in the prevention, investigation and prosecution of the offences set forth in article 1. In particular, they shall, in accordance with their domestic laws or pursuant to bilateral or multilateral agreements or arrangements:

(a) Take all appropriate measures to prevent preparation in their respective territories for the commission of those offences within or outside their territories;

(b) Exchange information in accordance with their national law and coordinate administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 1.

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[51] Senior Experts Group recommendation 11, which states: "Training courses, joint seminars and information exchange sessions should be encouraged on a bilateral, regional and world wide basis." Senior Experts Group recommendations 25 and 26 are also relevant.

[52] Senior Experts Group recommendations 11, 12 and 21.

[53] Senior Experts Group recommendations 31 and 34.

2. States Parties shall consider the establishment of a common data bank concerning transnational organized crime, including information gathered regarding activities of criminal groups, their members and convicted persons.[54]

Article 13

APPLICATION OF COOPERATION PROVISIONS TO OTHER MULTILATERAL CONVENTIONS

States Parties may apply articles 3 to 12 of this Convention to other multilateral conventions to the extent agreed between States Parties.

Article 14

DISPUTE SETTLEMENT

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of ratification or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to [the Secretary-General of the United Nations].

Article 15

SIGNATURE, RATIFICATION, ACCESSION

1. This Convention shall be open for signature by all States until [date] at [United Nations Headquarters in New York].

2. This Convention is subject to ratification. The instruments of ratification [shall be deposited with the Secretary-General of the United Nations].

3. This Convention is subject to accession by any State. The instruments of accession shall be deposited with [the Secretary-General of the United Nations].

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[54] Poland's draft United Nations framework convention against organized crime, article 12, paragraph 3.

Article 16

ENTRY INTO FORCE

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the [twenty-fifth] instrument of ratification or accession with [the Secretary-General of the United Nations].

2. For each State ratifying or acceding to the Convention after the deposit of the [twenty-fifth] instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 17

DENUNCIATION

1. Any State Party may denounce this Convention by written notification to [the Secretary-General of the United Nations].

2. Denunciation shall take effect one year following the date on which notification is received by [the Secretary-General of the United Nations].

Article 18

LANGUAGES AND DEPOSITARY

The original of this Convention, of which the [Arabic, Chinese, English, French, Russian and Spanish] texts are equally authentic, shall be deposited with [the Secretary-General of the United Nations], who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at [place] on [date].

Annex VI

GERMAN VIEWS ON AN ALTERNATIVE SOLUTION FOR A UNITED NATIONS CONVENTION ON COMBATING ORGANIZED TRANSNATIONAL CRIME: A PROVISIONAL PERSPECTIVE

1. Organized transnational crime threatens both economic and political structures of States. It is a global menace endangering industrial and developing societies alike and requires a global response. The draft United Nations framework convention against organized crime, submitted to the General Assembly by the Government of Poland,[55] offers a good basis for discussion of this urgent problem in the Commission on Crime Prevention and Criminal Justice.

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[55] A/C.3/51/7.

2. So far, national and international efforts to produce a workable definition of organized transnational crime have been unsuccessful. The definition contained in the draft United Nations framework convention, article 1, is, from a German perspective, in part too narrow, in part too broad. Germany considers organized transnational crime not as a clearly definable criminal offence but as a complex phenomenon of criminality. Elements of a description could probably be agreed upon and set out in the preamble of such a convention. It is problematic even to give a paradigmatic list of specific crimes because, whereas everybody can agree on what constitutes murder, there is no international consensus on what constitutes, for example, corruption of public officials. This would lead to insuperable difficulties in penalizing such criminal behaviour and establishing jurisdiction.

3. From a German point of view, these difficulties could be circumvented by the following alternative solution:

(a) The elaboration of a comprehensive United Nations convention on organized transnational crime should be based on the Model Treaty on Extradition[56] and the Model Treaty on Mutual Assistance in Criminal Matters;[57]

(b) Such a convention should refrain from reference to specific crimes but the point of referral would be the framework given by the Model Treaty on Extradition, article 2, at least for extraditable offences. For the granting of legal assistance no specific point of referral would probably be necessary;

(c) A gap in the international armoury against organized transnational crime seems to stem from the fact that some legal systems do not penalize criminal behaviour that is not directly aimed at a concrete crime and, therefore, cannot be qualified as participation, whereas for example German, French and Italian laws penalize such participation on the basis of membership in a "criminal association". The convention ought to contain an obligation to penalize on these lines. This could follow the formulation of the Convention, drawn up on the basis of article K.3 of the Treaty on European Union, relating to extradition between the member States of the European Union of 27 September 1996, article 3, on conspiracy and association to commit offences:

> Each party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the participation as an accomplice in or the organization or direction of others to commit an offence in the field of drug trafficking or other forms of organized crime.

(d) Indispensable for an effective fight at the national and international levels against organized transnational crime are adequate provisions for skimming off the proceeds of crime. The convention should, therefore, oblige Member States to legislate to this effect;

(e) In all international forums, there is general agreement that the scope for the imposition of penalties for money-laundering in connection with drug trafficking is unsatisfactory. The convention should provide that, in principle, any other serious offence in addition to drug-related offences can be considered a predicate offence for money-laundering;

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[56] General Assembly resolution 45/116, annex, of 14 December 1990.

[57] General Assembly resolution 45/117, annex, of 14 December 1990.

(f) Following the model of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[58] the convention should contain provisions for the domestic implementation of foreign forfeiture measures;

(g) A precondition for fighting transnational organized crime on a national or international level is an effective witness protection programme (see the relevant European Union recommendations, the forty recommendations elaborated by the Senior Experts Group on Transnational Organized Crime and endorsed at Lyon, France, in June 1996 and the idea underlying the draft United Nations framework convention, article 13);

(h) In addition, the convention should make provision for police cooperation and training (see the draft United Nations framework convention, article 11, and the 1988 Convention, article 9);

(i) Finally, some new ideas put forward by the Council of Europe, the European Union and other international forums in the area of extradition and mutual assistance could be taken up in a United Nations convention.

DRAFT RESOLUTION II

Preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders[*]

The Economic and Social Council recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Recalling its resolution 50/145 of 21 December 1995, on the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Considering that, pursuant to its resolutions 415 (V), annex, of 1 December 1950 and 46/152, annex, of 18 December 1991, the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders is to be convened in the year 2000,

Recognizing the significant contributions of the United Nations congresses on the prevention of crime and the treatment of offenders to the promotion and strengthening of international cooperation in crime prevention and criminal justice,

Bearing in mind the new role of the congresses as stipulated in the Statement of Principles and Programme of Action of the United Nations Crime Prevention and Criminal Justice Programme, paragraph 29, contained in General Assembly resolution 46/152, annex,

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[*] For the discussion, see chapter II.

[58] *Official Records of the United Nations Conference for the Adoption of a United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

Recalling Economic and Social Council resolution 1993/32 of 27 July 1993 and the rules of procedure for United Nations congresses on the prevention of crime and the treatment of offenders, annexed to that resolution,

Recalling resolution 5/1 of 30 May 1996 of the Commission on Crime Prevention and Criminal Justice, in which the Commission requested the Secretary-General to summarize the views received from Governments, relevant United Nations agencies and programmes, and intergovernmental and non-governmental organizations concerning the proposals for the theme, format, agenda items, workshop topics and possible venue of the Tenth Congress for consideration by the Commission at its sixth session,

1. *Takes note* of the report of the Commission on Crime Prevention and Criminal Justice on its sixth session and of its discussion on the preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

2. *Decides* that the Tenth Congress should be held in the year 2000 and that the following topics should be included in its provisional agenda, as recommended by the Commission on Crime Prevention and Criminal Justice at its sixth session:[59]

(a) Promoting the rule of law and strengthening the criminal justice system;

(b) International cooperation in combating transnational crime: new challenges in the twenty-first century;

(c) Effective crime prevention: keeping pace with new developments;

(d) Offenders and victims: accountability and fairness in the justice process;

3. *Also decides* that four workshops on the following issues should be held within the framework of the Tenth Congress:

(a) Combating corruption;

(b) Crimes related to the computer network;

(c) Community involvement in crime prevention;

(d) Women in the criminal justice system;

4. *Welcomes* the offer by the Government of South Africa to host the Tenth Congress and requests the Secretary-General to initiate consultations with the Government and to report to the Commission at its seventh session;

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[59] *Official Records of the Economic and Social Council, 1997, Supplement No. [10]* (E/1997/30) [(E/CN.15/1997/21)], chap. II, para. 15.

5. *Takes note with appreciation* of the statement made on behalf of the Government of Austria that, if consensus could be reached and questions of timing could be resolved, that Government would be honoured to host the Tenth Congress at Vienna;

6. *Requests* the Commission, at its seventh session, to finalize the programme for the Tenth Congress and to make its final recommendations, through the Economic and Social Council, to the General Assembly, taking into account that the Tenth Congress should deal with a limited number of precisely defined substantive topics reflecting the urgent needs of the world community and include practical technical workshops on well-focused issues related to the substantive agenda items;

7. *Requests* the Secretary-General to prepare a discussion guide for the consideration of the Commission, in cooperation with the institutes for the prevention of crime and the treatment of offenders affiliated with the United Nations, and invites Member States to be actively involved in that process;

8. *Invites* the regional commissions, the United Nations Crime Prevention and Criminal Justice Programme network, government-appointed national correspondents in the field of crime prevention and criminal justice, specialized agencies and other entities within the United Nations system, the intergovernmental organizations concerned and relevant non-governmental organizations in consultative status with the Economic and Social Council to become actively involved in the preparations for the Tenth Congress;

9. *Invites* Member States to be represented at the Tenth Congress at a high political level, for example by heads of State, government ministers and attorneys-general;

10. *Decides* to reserve the first two days of the plenary session at the Tenth Congress following its opening primarily for statements by such representatives at a high political level on the main themes of the Congress;

11. *Requests* the Secretary-General to prepare an overview of the state of crime and criminal justice worldwide for presentation at the opening of the Tenth Congress;

12. *Also requests* the Secretary-General to facilitate the organization of ancillary meetings of non-governmental and professional organizations participating in the Tenth Congress, in accordance with past practice, as well as meetings of professional and geographical interest groups and to take appropriate measures to encourage the participation of the academic and research community at the Tenth Congress;

13. *Further requests* the Secretary-General to provide the Crime Prevention and Criminal Justice Division of the Secretariat, serving as the secretariat of the Tenth Congress, with the resources necessary to undertake, in an effective and timely manner, within the overall appropriations of the programme budget for the biennium 1998-1999, the preparatory activities for the Tenth Congress, as directed by the Commission, including the organization of regional preparatory meetings, and to ensure adequate resources for the biennium 2000-2001 for other requirements and the conduct of the Tenth Congress itself;

14. *Further requests* the Secretary-General to provide resources, as required, in accordance with established United Nations budgetary practice, within the overall appropriations of the programme budget for the biennium 1998-1999, and adequate resources for the biennium 2000-2001, in order to ensure an appropriate programme of public information relating to the preparations for the Tenth Congress;

15. *Further requests* the Secretary-General to make available the necessary resources for the participation of the least developed countries in the regional preparatory meetings for the Tenth Congress and in the Congress itself, in accordance with past practice;

16. *Invites* the Commission, as the preparatory body for the United Nations congresses, to finalize, at its seventh session, all organizational arrangements for the Tenth Congress, including its dates and duration, documentation and venue;

17. *Requests* the Secretary-General to ensure proper follow-up action to the present resolution and to report thereon to the General Assembly, through the Commission at its seventh session.

DRAFT RESOLUTION III

Crime prevention and criminal justice measures to eliminate violence against women[*]

The Economic and Social Council recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Bearing in mind its resolution 48/104 of 20 December 1993, in which it proclaimed the Declaration on the Elimination of Violence against Women, and recalling the definition of violence against women contained in articles 1 and 2 of the Declaration,

Strongly condemning all forms of violence against women,

Stressing that the effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women[60] contributes to the elimination of violence against women and that the implementation of the Declaration on the Elimination of Violence against Women strengthens and complements that process,

Recalling the Beijing Declaration[61] and Platform for Action[62] adopted by the Fourth World Conferenc on Women: Action for Equality, Development and Peace, held at Beijing from 4 to 15 September 1995, and in particular, the determination of Governments to prevent and eliminate all forms of violence against women and girls,

Recognizing the need to fully implement the Beijing Declaration and Platform for Action in the field o crime prevention and criminal justice and to develop strategies and practical measures in that field,

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[*] For the discussion, see chapter VI.

[60] General Assembly resolution 34/180, annex, of 18 December 1979.

[61] A/CONF.177/20 and Add.1, chap. I, resolution 1, annex I.

[62] Ibid., resolution 1, annex II.

Recalling Commission on Human Rights resolution 1997/44 of 11 April 1997, on the elimination of violence against women,

Welcoming the renewal of the mandate by the Commission on Human Rights of the Special Rapporteur on violence against women, its causes and consequences,

Recalling the conclusions and recommendations of the Special Rapporteur, stressed by the Commission on Human Rights in its resolution 1997/44, that States have an affirmative duty to promote and protect the human rights of women and must exercise due diligence to prevent violence against women,

Affirming Economic and Social Council resolution 1996/12 of 23 July 1996, on the elimination of violence against women,

Expressing deep concern about the high social, health and economic costs to the individual and society that are associated with violence against women,

Bearing in mind that criminal justice agencies should work closely with practitioners in other sectors, including health, social services and education, and with members of the community to deal with the problem of violence against women,

Acknowledging the valuable contribution made by non-governmental organizations, organizations seeking women's equality and community agencies in working towards the elimination of violence against women,

1. *Urges* Member States to review and evaluate their legislation and legal principles, procedures, policies and practices relating to criminal matters, in a manner consistent with their legal systems, to determine if they have a negative impact on women and, if they have such an impact, to modify them in order to ensure that women are treated fairly by the criminal justice system;

2. *Also urges* Member States to undertake strategies, develop policies and disseminate materials to promote women's safety in the home and in society at large, including specific crime prevention strategies that reflect the realities of women's lives and address their distinct needs in areas such as social development, environmental design and educational prevention programmes;

3. *Further urges* Member States to promote an active and visible policy of integrating a gender perspective into the development and implementation of all policies and programmes in the field of crime prevention and criminal justice which may assist in the elimination of violence against women so that, before decisions are taken, an analysis may be made to ensure that they entail no unfair gender bias;

4. *Calls upon* the Commission on Crime Prevention and Criminal Justice, through the Crime Prevention and Criminal Justice Division of the Secretariat and the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, to cooperate and to coordinate with all relevant organs, bodies and other entities of the United Nations system their activities on issues relating to violence against women and to the removal of gender bias in the administration of criminal justice;

5. *Calls upon* the institutes comprising the Programme network to continue training in the field of violence against women and to consolidate and disseminate information on successful intervention models and preventive programmes at the national level;

6. *Requests* the Commission on Crime Prevention and Criminal Justice to ensure that *Strategies* *Confronting Domestic Violence: a Resource Manual*,[63] which has been published in English, is published in other official languages of the United Nations, subject to the availability of regular budget or extrabudge funds, and acknowledges the contribution of Canada in that respect;

7. *Calls upon* Governments, international organizations and non-governmental organizations appropriate, to translate *Strategies for Confronting Domestic Violence: a Resource Manual* into local langua and to ensure its wide dissemination for use in training and education programmes;

8. *Takes note* of the report of the Secretary-General on the elimination of violence against wome including the revision of the draft practical measures, strategies and activities in the field of crime preven and criminal justice for the elimination of violence against women, based on comments received from Mem States, United Nations entities, including specialized agencies, and associate entities, as well as in governmental and non-governmental organizations;

9. *Adopts* the Model Strategies and Practical Measures on the Elimination of Violence against Wo in the Field of Crime Prevention and Criminal Justice, annexed to the present resolution, as a mode guidelines to be used by Governments in their efforts to address, within the criminal justice system, the var manifestations of violence against women;

10. *Urges* Member States to be guided by the Model Strategies and Practical Measures in develo and undertaking strategies and practical measures to eliminate violence against women and in promo women's equality within the criminal justice system;

11. *Requests* the Commission on Crime Prevention and Criminal Justice, through the Crime Preven and Criminal Justice Division, to assist Member States at their request in utilizing the Model Strategies Practical Measures;

12. *Calls upon* the Commission on Crime Prevention and Criminal Justice to continue to conside elimination of violence against women within the training and technical assistance efforts of the United Na Crime Prevention and Criminal Justice Programme;

13. *Requests* the Secretary-General to ensure the wide dissemination of the Model Strategies Practical Measures, with a view to promoting their use;

14. *Also requests* the Secretary-General to transmit the Model Strategies and Practical Measures t relevant United Nations organizations and bodies, such as the Commission on the Status of Women Committee on the Elimination of Discrimination against Women, the Commission on Human Rights, inclu the Subcommission on Prevention of Discrimination and Protection of Minorities, and the Special Rappo on violence against women, its causes and its consequences and invites those organizations and bodi develop strategies and practical measures on the elimination of violence against women on their are expertise;

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[63] ST/CSDHA/20.

[64] E/CN.15/1997/11 and Add.1.

15. *Invites* the Economic and Social Council to consider including the issue of violence against women at the high-level segments of one of its forthcoming sessions, in the context of its discussion on the human rights of women;

16. *Requests* the Secretary-General to submit to the General Assembly at its fifty-fourth session, through the Economic and Social Council, a report on the implementation of the present resolution.

Annex

MODEL STRATEGIES AND PRACTICAL MEASURES ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

1. The multifaceted nature of violence against women suggests that different strategies are required for different manifestations of violence and the various settings in which it occurs. The practical measures, strategies and activities described below can be introduced in the field of crime prevention and criminal justice to deal with the problem of violence against women. Except where otherwise specified, the term "women" encompasses "girl children".

2. Recalling the definition of violence against women in the Declaration on the Elimination of Violence against Women[65] and reiterated in the Platform for Action adopted by the Fourth World Conference on Women, held at Beijing from 4 to 15 September 1995,[66] the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice build on the measures adopted by Governments in the Platform for Action, bearing in mind that some groups of women are especially vulnerable to violence.

3. The Model Strategies and Practical Measures specifically acknowledge the need for an active policy of bringing into the mainstream a gender perspective in all policies and programmes related to violence against women and of achieving gender equality and equal and fair access to justice, as well as establishing the goal of gender balance in areas of decision-making related to the elimination of violence against women. The Model Strategies and Practical Measures should be applied as guidelines in a manner consistent with relevant international instruments, including the Convention on the Elimination of All Forms of Discrimination against Women,[67] the Convention on the Rights of the Child[68] and the International Covenant on Civil and Political Rights,[69] with a view to furthering their fair and effective implementation.

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[65] General Assembly resolution 48/104 of 20 December 1993.

[66] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (A/CONF.177/20 and Add.1), chap. I, resolution 1, annex II.

[67] General Assembly resolution 34/180, annex, of 18 December 1979.

[68] General Assembly resolution 44/25, annex, of 20 November 1989.

[69] General Assembly resolution 2200 A (XXI), annex, of 16 December 1966.

4. The Model Strategies and Practical Measures should be implemented by Member States and other entities, without prejudice to the principle of gender equality before the law, in order to facilitate the efforts by Governments to deal with, within the criminal justice system, the various manifestations of violence against women.

5. The Model Strategies and Practical Measures are aimed at providing *de jure* and de facto equality between women and men. The Model Strategies and Practical Measures do not give preferential treatment to women but are aimed at ensuring that any inequalities or forms of discrimination that women face in achieving access to justice, particularly in respect of acts of violence, are redressed.

I. CRIMINAL LAW

6. Member States are urged:

(a) To periodically review, evaluate and revise their laws, codes and procedures, especially their criminal laws, to ensure their value and effectiveness in eliminating violence against women and remove provisions that allow for or condone violence against women;

(b) To review, evaluate and revise their criminal and civil laws, within the framework of their national legal systems, in order to ensure that all acts of violence against women are prohibited and, if not, to adopt measures to do so;

(c) To review, evaluate and revise their criminal laws in order to ensure that:

(i) Persons who are brought before the courts on judicial matters in respect of violent crimes or who are convicted of such crimes can be restricted in their possession and use of firearms and other regulated weapons, within the framework of their national legal systems;

(ii) Individuals can be prohibited or restrained, within the framework of their national legal systems, from harassing, intimidating or threatening women.

II. CRIMINAL PROCEDURE

7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in orde to ensure that:

(a) The police have, with judicial authorization where required by national law, adequate powers t enter premises and conduct arrests in cases of violence against women, including confiscation of weapons;

(b) The primary responsibility for initiating prosecutions lies with prosecution authorities and does no rest with women subjected to violence;

(c) Women subjected to violence have an opportunity to testify in court proceedings equal to that c other witnesses and that measures are available to facilitate such testimony and to protect their privacy;

(d) Rules and principles of defence do not discriminate against women, and such defences as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility;

(e) Perpetrators who commit acts of violence against women while voluntarily under the influence of alcohol or drugs are not absolved of all criminal or other responsibility;

(f) Evidence of prior acts of violence, abuse, stalking and exploitation by the perpetrator is considered during court proceedings, in accordance with the principles of national criminal law;

(g) The courts have, subject to the national constitution of their State, the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside of the domicile, and to impose penalties for breaches of these orders;

(h) Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;

(i) Safety risks are taken into account in decisions concerning non- or quasi-custodial sentences, the granting of bail, conditional release, parole or probation.

III. POLICE

8. Member States are urged, within the framework of their national legal systems:

(a) To ensure that the applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of violence against women are recognized and responded to accordingly by the criminal justice system;

(b) To develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence;

(c) To ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise and that these procedures also prevent further acts of violence;

(d) To empower the police to respond promptly to incidents of violence against women;

(e) To ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct and that the police may be held accountable for any infringement thereof;

(f) To encourage women to join police forces, including at the operational level.

IV. SENTENCING AND CORRECTIONS

9. Member States are urged, as appropriate:

(a) To review, evaluate and revise sentencing policies and procedures in order to ensure that they meet the goals of:

(i) Holding offenders accountable for their acts related to violence against women;

(ii) Stopping violent behaviour;

(iii) Taking into account the impact on victims and their family members of sentences imposed on perpetrators who are members of their families;

(iv) Promoting sanctions that are comparable to those for other violent crimes;

(b) To ensure that a woman subjected to violence is notified of any release of the offender from detention or imprisonment where the safety of the victim in such disclosure outweighs invasion of the offender's privacy;

(c) To take into account in the sentencing process the severity of the physical and psychological harm and the impact of victimization, including through victim impact statements where such practices are permitted by law;

(d) To make available to the courts through legislation a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence;

(e) To ensure that the sentencing judge is encouraged to recommend treatment of the offender at the time of sentencing;

(f) To ensure that there are appropriate measures in place to eliminate violence against women who are detained for any reason;

(g) To develop and evaluate offender treatment programmes for different types of offenders and offender profiles;

(h) To protect the safety of victims and witnesses before, during and after criminal proceedings.

V. VICTIM SUPPORT AND ASSISTANCE

10. Member States are urged, as appropriate:

(a) To make available to women who have been subjected to violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings;

(b) To encourage and assist women subjected to violence in lodging and following through on formal complaints;

(c) To ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offenders or the State;

(d) To provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases;

(e) To establish a registration system for judicial protection and restraining orders, where such orders are permitted by national law, so that police or criminal justice officials can quickly determine whether such an order is in force.

VI. HEALTH AND SOCIAL SERVICES

11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:

(a) To establish, fund and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation for women and their children who are at risk of becoming or who have been victims of violence;

(b) To establish, fund and coordinate services such as toll-free information lines, professional multidisciplinary counselling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children;

(c) To design and sponsor programmes to caution against and prevent alcohol and substance abuse, given the frequent presence of alcohol and substance abuse in incidents of violence against women;

(d) To establish better linkages between medical services, both private and emergency, and criminal justice agencies for purposes of reporting, recording and responding to acts of violence against women;

(e) To develop model procedures to help participants in the criminal justice system to deal with women subjected to violence;

(f) To establish, where possible, specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women.

VII. TRAINING

12. Member States, in cooperation with non-governmental organizations, including organizations seeking women's equality, and in collaboration with relevant professional associations, are urged, as appropriate:

(a) To provide for or encourage mandatory cross-cultural and gender-sensitivity training modules for police, criminal justice officials, practitioners and professionals involved in the criminal justice system that deal with the unacceptability of violence against women, its impact and consequences and that promote an adequate response to the issue of violence against women;

(b) To ensure adequate training, sensitivity and education of police, criminal justice officials, practitioners and professionals involved in the criminal justice system regarding all relevant human rights instruments;

(c) To encourage professional associations to develop enforceable standards of practice and behaviour for practitioners involved in the criminal justice system, which promote justice and equality for women.

VIII. RESEARCH AND EVALUATION

13. Member States and the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, relevant entities of the United Nations system, other relevant international organizations, research institutes, non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:

(a) To develop crime surveys on the nature and extent of violence against women;

(b) To gather data and information on a gender-disaggregated basis for analysis and use, together with existing data, in needs assessment, decision-making and policy-making in the field of crime prevention and criminal justice, in particular concerning:

(i) The different forms of violence against women, its causes and consequences;

(ii) The extent to which economic deprivation and exploitation are linked to violence against women;

(iii) The relationship between the victim and the offender;

(iv) The rehabilitative or anti-recidivistic effect of various types of intervention on the individual offender and on the reduction of violence against women;

(v) The use of firearms, drugs and alcohol, particularly in cases of violence against women in situations of domestic violence;

(vi) The relationship between victimization or exposure to violence and subsequent violent activity;

(c) To monitor and issue annual reports on the incidence of violence against women, arrest and clearance rates, prosecution and case disposition of the offenders;

(d) To evaluate the efficiency and effectiveness of the criminal justice system in fulfilling the needs of women subjected to violence.

IX. CRIME PREVENTION MEASURES

14. Member States and the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:

(a) To develop and implement relevant and effective public awareness and public education and school programmes that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men;

(b) To develop multidisciplinary and gender-sensitive approaches within public and private entities that participate in the elimination of violence against women, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence;

(c) To set up outreach programmes for offenders or persons identified as potential offenders in order to promote the peaceful resolution of conflicts, the management and control of anger and attitude modification about gender roles and relations;

(d) To set up outreach programmes and offer information to women, including victims of violence, about gender roles, the human rights of women and the social, health, legal and economic aspects of violence against women, in order to empower women to protect themselves against all forms of violence;

(e) To develop and disseminate information on the different forms of violence against women and the availability of programmes to deal with that problem, including programmes concerning the peaceful resolution of conflicts, in a manner appropriate to the audience concerned, including in educational institutions at all levels;

(f) To support initiatives of organizations seeking women's equality and non-governmental organizations to raise public awareness of the issue of violence against women and to contribute to its elimination.

15. Member States and the media, media associations, media self-regulatory bodies, schools and other relevant partners, while respecting the freedom of the media, are urged, as appropriate, to develop public awareness campaigns and appropriate measures and mechanisms, such as codes of ethics and self-regulatory measures on media violence, aimed at enhancing respect for the rights of women and discouraging both discrimination against women and stereotyping of women.

X. INTERNATIONAL COOPERATION

16. Member States and United Nations bodies and institutes are urged, as appropriate:

(a) To exchange information concerning successful intervention models and preventive programmes in eliminating violence against women and to compile a directory of those models;

(b) To cooperate and collaborate at the regional and international levels with relevant entities to prevent violence against women and to promote measures to effectively bring perpetrators to justice, through mechanisms of international cooperation and assistance in accordance with national law;

(c) To contribute to and support the United Nations Development Fund for Women in its activities to eliminate violence against women.

17. Member States are urged:

(a) To limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women to those that are formulated as precisely and as narrowly as possible and that are not incompatible with the object and purpose of the Convention;

(b) To condemn all violations of the human rights of women in situations of armed conflict, to recognize them as being violations of international human rights and humanitarian law and to call for a particularly effective response to violations of that kind, including in particular murder, systematic rape, sexual slavery and forced pregnancy;

(c) To work actively towards ratification of or accession to the Convention on the Elimination of All Forms of Discrimination against Women, for the States that are still not parties to it, so that universal ratification can be achieved by the year 2000;

(d) To give full consideration to integrating a gender perspective in the drafting of the statute of the international criminal court, particularly in respect of women who are victims of violence;

(e) To cooperate with and assist the Special Rapporteur on violence against women, its causes and consequences in the performance of his or her mandated tasks and duties, to supply all information requested and to respond to the Special Rapporteur's visits and communications.

XI. FOLLOW-UP ACTIVITIES

18. Member States and United Nations bodies subject to extrabudgetary funds, the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, other relevant international organizations, research institutes, non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:

(a) To encourage the translation of the Model Strategies and Practical Measures into local languages and to ensure its wide dissemination for use in training and education programmes;

(b) To utilize the Model Strategies and Practical Measures as a basis, a policy reference and a practical guide for activities aimed at eliminating violence against women;

(c) To assist Governments, at their request, in reviewing, evaluating and revising their criminal justice systems, including their criminal legislation, on the basis of the Model Strategies and Practical Measures;

(d) To support the technical cooperation activities of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network in eliminating violence against women;

(e) To develop coordinated national, regional and subregional plans and programmes to put the Model Strategies and Practical Measures into effect;

(f) To design standard training programmes and manuals for the police and criminal justice officials, based on the Model Strategies and Practical Measures;

(g) To periodically review and monitor, at the national and international levels, progress made in terms of plans, programmes and initiatives to eliminate violence against women in the context of the Model Strategies and Practical Measures.

DRAFT RESOLUTION IV

International cooperation against corruption and bribery in international commercial transactions[*]

The Economic and Social Council recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Disturbed by the bribery of public officials by individuals and enterprises of other States, in relation to international commercial transactions,

Convinced that such practices undermine the integrity of state bureaucracies and weaken social and economic policies by promoting corruption in the public sector, thus diminishing its credibility,

Convinced that the fight against corruption must be supported by sincere international cooperation efforts,

Recalling its resolution 3514 (XXX) of 15 December 1975, in which it, *inter alia*, condemned all corrupt practices, including bribery, by transnational corporations and other corporations, their intermediaries and others involved, in violation of the laws and regulations in host countries, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, against such corrupt practices and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling Economic and Social Council resolution 1995/14 of 24 July 1995, on action against corruption,

Recalling its resolution 50/225 of 19 April 1996, on public administration and development,

Recalling in particular its resolution 51/59 of 12 December 1996, in which it adopted the International Code of Conduct for Public Officials, annexed thereto, and recommended it to Member States as a tool to guide their efforts against corruption,

Recalling that, in its resolution 51/191 of 16 December 1996, it adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions,

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[*] For the discussion, see chapter III.

Recalling also that, in its resolution 51/191, it requested the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Criminal Justice, to examine ways to further the implementation of that resolution and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, to keep the issue of corruption and bribery in international commercial transactions under regular review and to promote the effective implementation of that resolution,

Taking note of the report of the Secretary-General on action against corruption and bribery[70] and of the report of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997,[71]

Welcoming developments that have advanced international understanding and cooperation regarding bribery in transnational business, such as the Inter-American Convention against Corruption, of the Organization of American States, March 1996, which includes an article on the prohibition of foreign commercial bribery, the ongoing work of the Council of Europe against corruption to elaborate several international conventions including provisions on bribery in international commercial transactions, the ongoing work in the World Trade Organization to improve transparency, openness and due process in government procurement procedures, the ongoing work of the member States of the Organisation for Economic Co-operation and Development including, as elements, the agreement to prohibit the tax deductibility of bribes paid to foreign public officials in international commercial transactions, and the commitment to criminalize the bribing of foreign public officials in international business transactions,

1. *Agrees* that all States should take all possible measures to further the implementation of the United Nations Declaration against Corruption and Bribery in International Commercial Transactions[72] and of the International Code of Conduct for Public Officials;[73]

2. *Urges* Member States that have not yet done so to implement relevant international declarations and to ratify, where appropriate, international instruments against corruption;

3. *Urges* Member States to criminalize, in an effective and coordinated manner, the bribery of public office holders of other States in international commercial transactions and encourages them to engage, as appropriate, in programmatic activities to deter, prevent and combat bribery and corruption, for example, by diminishing institutional barriers through the development of integrated management systems and the promotion of legal reform in accordance with their fundamental legal principles in both the public and private sectors, by encouraging a greater role for citizens in the development of transparent and accountable governments, by supporting the active participation of non-governmental organizations in the identification, planning and implementation of initiatives that raise ethical standards and practices in both government and business transactions and by providing training and technical assistance to other States, as appropriate, to develop and implement standards of good governance, in particular, accountability and transparency, legitimate commercial and financial conduct and other anti-corruption measures;

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[70] E/CN.15/1997/3.

[71] E/CN.15/1997/3/Add.1, annex.

[72] General Assembly resolution 51/191, annex, of 16 December 1996.

[73] General Assembly resolution 51/59, annex, of 12 December 1996.

4. *Requests* the Secretary-General to invite each Member State to provide a report on steps taken to implement the provisions of the Declaration, including those dealing with criminalization, effective sanctions, tax deductibility, accounting standards and practices, development of business codes, illicit enrichment, mutual legal assistance and bank secrecy provisions, as well as on national anti-corruption strategies and policies, for compilation by the Secretary-General, distribution and consideration by the Commission on Crime Prevention and Criminal Justice, with a view to examining further steps to be taken for the full implementation of the Declaration;

5. *Invites* competent international, regional and non-governmental organizations to provide relevant information to the Commission on Crime Prevention and Criminal Justice on international efforts to combat corruption and bribery;

6. *Requests* the Secretary-General, subject to the availability of extrabudgetary funds, to intensify technical assistance to combat corruption, providing advisory services to Member States that request such services, and urges Member States to provide the Secretariat with the necessary extrabudgetary funds for such technical assistance;

7. *Requests* the Commission on Crime Prevention and Criminal Justice to give attention to the question of the bribery of public office holders of other States in international commercial transactions and to include in its agenda for a future session a review of action by States to implement the Declaration.

DRAFT RESOLUTION V

International cooperation in criminal matters[*]

The Economic and Social Council recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Acknowledging the benefits of the enactment of national laws providing the most flexible basis for extradition, and bearing in mind that some developing countries and countries with economies in transition may lack the resources for developing and implementing treaty relations in extradition, as well as appropriate national legislation,

Bearing in mind that United Nations model treaties on international cooperation in criminal matters provide important tools for the development of international cooperation,

Convinced that existing arrangements governing international cooperation in law enforcement must be continuously reviewed and revised to ensure that the specific contemporary problems of fighting crime are being effectively addressed at all times,

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[*] For the discussion, see chapter V.

Convinced that reviewing and revising the United Nations model treaties will contribute to increased efficiency in combating criminality,

Commending the work of the Intergovernmental Expert Group Meeting on Extradition, held at Siracusa, Italy, from 10 to 13 December 1996, to implement in part Economic and Social Council resolution 1995/27 of 24 July 1995 by reviewing the Model Treaty on Extradition[74] and by proposing complementary provisions for it, elements for model legislation in the field of extradition, and training and technical assistance for national officials engaged in the field of extradition,

Commending also the International Association of Penal Law and the International Institute of Higher Studies in Criminal Sciences for providing support for the Meeting and the Governments of Finland, Germany and the United States of America and the United Nations Interregional Crime and Justice Research Institute for their cooperation in the organization of the Meeting,

Recognizing that the work of the Intergovernmental Expert Group could not be fully completed given the limited amount of time available to it and was therefore ultimately limited to the field of extradition,[75]

Determined to implement Economic and Social Council resolution 1995/27, section I, in which the Council requested the Secretary-General to convene a meeting of an intergovernmental expert group that should explore ways of increasing the efficiency of extradition and related mechanisms of international cooperation,

I

MUTUAL ASSISTANCE

1. *Requests* the Secretary-General to convene, using extrabudgetary funds already offered for this purpose, a meeting of an intergovernmental expert group to examine practical recommendations for the further development and promotion of mutual assistance in criminal matters;

2. *Recommends* that the expert group should, in accordance with Economic and Social Council resolution 1995/27, section I, explore ways and means of increasing the efficiency of this type of international cooperation, having due regard to the rule of law and the protection of human rights, including by drafting alternative or complementary articles for the Model Treaty on Mutual Assistance in Criminal Matters,[76] developing model legislation and providing technical assistance in the development of agreements;

3. *Recommends* that the expert group should submit a report on the implementation of the present resolution to the Commission on Crime Prevention and Criminal Justice no later than at its eighth session;

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[74] General Assembly resolution 45/116, annex, of 14 December 1990.

[75] E/CN.15/1997/6 and Corr.1, annex, para.12.

[76] General Assembly resolution 45/117, annex, of 14 December 1990.

II

EXTRADITION

1. *Welcomes* the report of the Intergovernmental Expert Group Meeting on Extradition, held at Siracusa, Italy, from 10 to 13 December 1996;[77]

2. *Decides* that the Model Treaty on Extradition should be complemented by the provisions set forth in the annex to the present resolution;

3. *Encourages* Member States, within the framework of national legal systems, to enact effective extradition legislation, and calls upon the international community to give all possible assistance in achieving that goal;

4. *Requests* the Secretary-General to elaborate, in consultation with Member States and subject to extrabudgetary resources, for submission to the Commission on Crime Prevention and Criminal Justice, model legislation to assist Member States in giving effect to the Model Treaty on Extradition, in order to enhance effective cooperation between States, taking into account the elements in the contents of model legislation[78] recommended by the Intergovernmental Expert Group on Extradition;

5. *Invites* States to consider taking steps, within the framework of national legal systems, to conclude extradition and surrender or transfer agreements;

6. *Urges* States to revise bilateral and multilateral law enforcement cooperation arrangements as an integral part of the effort to effectively combat constantly changing methods of individuals and groups engaging in organized transnational crime;

7. *Urges* Member States to use the Model Treaty on Extradition as a basis in developing treaty relations at the bilateral, regional or multilateral level, as appropriate;

8. *Urges* Member States to continue to acknowledge that the protection of human rights should not be considered inconsistent with effective international cooperation in criminal matters, while recognizing the need for fully effective mechanisms for extraditing fugitives;

9. *Invites* Member States to consider, where applicable and within the framework of national legal systems, the following measures in the context of the use and application of extradition treaties or other arrangements:

(a) Establishing and designating a national central authority to process requests for extradition;

(b) Undertaking regular reviews of their treaty or other extradition arrangements and implementing legislation, as well as taking other necessary measures for the purpose of rendering such arrangements and legislation more efficient and effective in combating new and complex forms of crime;

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[77] E/CN.15/1997/6 and Corr.1, annex.

[78] E/CN.15/1997/6 and Corr.1, annex, para.1, annex II.

(c) Simplifying and streamlining procedures necessary to execute and initiate requests for extradition, including the provision to requested States of information sufficient to enable extradition;

(d) Reducing the technical requirements, including documentation, necessary to satisfy the tests for extradition where a person is accused of an offence;

(e) Providing for extraditable offences to extend to all acts and omissions that would be a criminal offence in both States carrying a prescribed minimum penalty and not to be individually listed in treaties or other agreements, particularly with respect to organized transnational crime;

(f) Ensuring effective application of the principle of *aut dedere aut judicare*;

(g) Paying adequate attention, when considering and implementing the measures mentioned in subparagraphs 9 (b) to (f) above, to furthering the protection of human rights and the maintenance of the rule of law;

10. *Encourages* Member States to promote, on a bilateral, regional or worldwide basis, measures to improve the skills of officials in order to facilitate extradition, such as specialized training and, whenever possible, secondment and exchanges of personnel, as well as the appointment in other States of representatives of prosecuting agencies or of judicial authorities, in accordance with national legislation or bilateral agreements;

11. *Reiterates* its invitation to Member States to provide to the Secretary-General copies of relevant laws and information on practices related to international cooperation in criminal matters and in particular to extradition, as well as updated information on central authorities designated to deal with requests;

12. *Requests* the Secretary-General:

(a) Subject to extrabudgetary resources, to regularly update and disseminate the information mentioned in paragraph 11 above;

(b) To continue to provide advisory and technical cooperation services to Member States requesting assistance in the development, negotiation and implementation of bilateral, subregional, regional or international treaties on extradition, as well as the drafting and application of appropriate national legislation, as necessary;

(c) To promote regular communication and exchanges of information between central authorities of Member States dealing with requests for extradition and to promote meetings of such authorities on a regional basis for Member States wishing to attend;

(d) To provide, taking into account the recommendations for a training programme[79] contained in the report of the Intergovernmental Expert Group, in cooperation with relevant intergovernmental organizations, with the participation of interested Member States at the intergovernmental organizational meeting referred to in the recommendations and subject to extrabudgetary resources, training for personnel in appropriate governmental agencies and central authorities of requesting Member States on extradition law and practice designed to develop necessary skills and improve communications and cooperation aimed at enhancing the effectiveness of extradition and related practices;

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[79] E/CN.15/1997/6 and Corr.1, annex, para. 1, annex III.

13. *Also requests* the Secretary-General, subject to extrabudgetary resources and in cooperation with other relevant intergovernmental organizations, the United Nations Interregional Crime and Justice Research Institute and the other institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, to develop appropriate training materials for use in providing to requesting Member States the technical assistance referred to above;

14. *Commends* the International Institute of Higher Studies in Criminal Sciences for its offer to organize and host a coordination meeting for the purpose of developing the training material referred to in paragraph 13 above, as well as training courses on extradition law and practice;

15. *Requests* the Secretary-General to ensure the full implementation of the provisions of the present resolution and urges Member States and funding agencies to assist the Secretary-General in implementing the present resolution through voluntary contributions to the United Nations Crime Prevention and Criminal Justice Fund;

16. *Also requests* the Secretary-General to submit the report on the Intergovernmental Expert Group Meeting on Extradition, together with the present resolution, to the Preparatory Committee on the Establishment of an International Criminal Court for consideration.

ANNEX

Complementary provisions for the Model Treaty on Extradition

Article 3

1. Move footnote 9 into the text of paragraph (a) at the end of the existing paragraph.

2. Add new footnote to paragraph (a): "Countries may wish to exclude certain conduct, e.g. acts of violence, such as serious offences involving an act of violence against the life, physical integrity or liberty of a person, from the concept of political offence".

3. Add to footnote 10 to paragraph (e): "Countries may also wish to restrict consideration of the issue of lapse of time to the law of the requesting State only or to provide that acts of interruption in the requesting State should be recognized in the requested State".

Article 4

4. Add footnote to paragraph (a): "Some countries may also wish to consider, within the framework of national legal systems, other means to ensure that those responsible for crimes do not escape punishment on the basis of nationality, such as, *inter alia*, provisions that would permit surrender for serious offences, or permit temporary transfer of the person for trial and return of the person to the requested State for service of sentence".

5. Add to paragraph (d) the same *aut dedere aut judicare* provisions as are found in paragraphs (a) and (f).

Article 5

6. Replace the existing footnote 14 to paragraph 2 (b) with the following: "Countries requiring evidence in support of a request for extradition may wish to define the evidentiary requirements necessary to satisfy the test for extradition, and in doing so should take into account the need to facilitate effective international cooperation".

7. Add a new footnote to article 5: "Countries may wish to consider including the most advanced techniques for the communication of requests, means which could none the less establish the authenticity of the documents as emanating from the requesting State".

Article 6

8. Add a footnote to article 6: "Countries may wish to provide for the waiver of speciality in the case of simplified extradition".

Article 14

9. Eliminate footnote 16 to paragraph 1 (b).

10. Add a new footnote to paragraph 1 (a): "Countries may also wish to provide that the rule of speciality is not applicable to extraditable offences provable on the same facts, and carrying the same or a lesser penalty as the original offence for which extradition was requested".

11. Add a footnote to paragraph 2: "Countries may wish to waive the requirement for the provision of some or all of these documents".

Article 15

12. Add to footnote 18 to paragraph 2: "However, countries may wish to provide that transit should not be denied on the basis of nationality".

Article 17

13. Add to footnote 19 to paragraph 2: "There may also be cases for consultations between the requesting and requested States for the payment by the requesting State of extraordinary costs, particularly in complex cases where there is a significant disparity in the resources available to the two States".

B. Draft resolutions for adoption by the Economic and Social Council

2. The Commission on Crime Prevention and Criminal Justice recommends to the Economic and Social Council the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Strengthening the United Nations Crime Prevention and Criminal Justice Programme with regard to the development of crime statistics and the operations of criminal justice systems[*]

The Economic and Social Council,

Recalling its resolution 1996/11 of 23 July 1996, on international cooperation and assistance in the management of the criminal justice system: computerization of criminal justice operations and the development, analysis and policy use of crime and criminal justice information, in which it urged Member States to assist the Secretary-General in strengthening the technical cooperation capacity of the United Nations Crime Prevention and Criminal Justice Programme network,

Recalling the recommendations of the Expert Group Meeting on Criminal Justice Management and Information Projects: Improving National and International Data Collection and Exchange, held at Buenos Aires from 10 to 13 March 1997,[80]

Considering the importance of the exchange of information and technical assistance with regard to computerization of operational information in criminal justice,

Mindful that the development of adequate national capacities is vital to the reliability of global statistics,

Considering the urgent need for statistics which can be used for comparative purposes on conventional types of crime and on transnational crime,

Considering that crime and criminal justice statistics which can be used for comparative purposes are an indispensable tool for designing criminal policies,

Taking into account that modern information technologies offer new opportunities for both improved operational information systems and the collection, analysis and dissemination of statistical information,

Noting with appreciation the directory of computerized criminal justice information systems[81] published by the European Institute for Crime Prevention and Control, affiliated with the United Nations, and the draft model of the "European sourcebook of crime and criminal justice statistics", to be published by the Council of Europe,

Also noting with appreciation the interregional training course entitled "The United Nations Crime and Justice Information Network: Providing Information to and from Developing Countries", hosted by the Government of the Republic of Korea, which was held at Seoul from 9 to 13 September 1996,

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[*] For the discussion, see chapter IV.

[80] E/CN.15/1997/5/Add.1.

[81] *1995 Directory: Computerized Criminal Justice Information Systems*, HEUNI Publication Series, No. 27 (The Hague, 1995).

1. *Urges* Member States to designate offices or bodies responsible for the coordination of dat collection at the country level with a view to improving cooperation with the United Nations and t communicate information on the designated coordinating offices or bodies to the Crime Prevention an Criminal Justice Division of the Secretariat;

2. *Requests* the Secretary-General to provide assistance upon request to those Member States tha might have difficulties replying to the questionnaires of the United Nations surveys of crime trends an operations of criminal justice systems;

3. *Recommends* that the Secretary-General should carry out the Sixth United Nations Survey of Crim and the Operations of Criminal Justice Systems for the period 1995-1997 and that subsequent core survey should be conducted every three or four years and should include, when needed, supplementary surveys o selected topics;

4. *Urges* Member States and the relevant institutes of the United Nations Crime Prevention an Criminal Justice Programme network to assist the Secretary-General in establishing an advisory steering group pursuant to Economic and Social Council resolution 1996/11, drawing upon extrabudgetary resources, to carr out the following operational tasks:

(a) Assisting Member States, upon request, through, *inter alia,* a standing pool of experts, in the revie and assessment of experiences in the computerization of criminal justice operations and/or in th implementation of actual computerization projects;

(b) Assisting Member States, upon request, through, *inter alia,* a standing pool of experts, in technica cooperation projects to strengthen national capacities for the collection, analysis and dissemination of crime an criminal justice statistics, including participation in the United Nations surveys of crime trends and operation of criminal justice systems and the international crime (victim) surveys;

(c) Assisting Member States, upon request, in training, at the national, regional and interregiona levels, experts in the collection, analysis, dissemination and policy use of crime and criminal justice statistic

(d) Assisting the Secretary-General in designing a core questionnaire for future United Nations survey of crime trends and operations of criminal justice systems and in designing supplementary questionnaires o extensive ad hoc topics;

(e) Assisting the Secretary-General in designing an effective framework for the collection of data o transnational crime;

(f) Assisting in the dissemination of statistical and other relevant policy information on crime an criminal justice with the use of modern information technologies, in collaboration with the United Nation Crime and Justice Information Network and the United Nations On-line Crime and Justice Clearing House;

(g) Assisting in training officials responsible for maintaining national crime and criminal justic statistics in order to improve national data collection capacities;

5. *Welcomes* the offer of the Governments of Argentina and the Netherlands to support the work o the Advisory Steering Group by hosting regional and/or interregional meetings and invites other Member State to provide similar support;

6. *Also welcomes* the offer of the Government of Canada to assist the Secretariat, which will work in cooperation with the members of the Crime Prevention and Criminal Justice Programme network and other interested experts, in the preparation of the *Guide on the Development and Analysis of Criminal Justice Statistics*;

7. *Requests* the Secretary-General to develop, in cooperation with the members of the Crime Prevention and Criminal Justice Programme network and other interested experts, an annex to the above-mentioned *Guide* that would include specific examples of basic statistical instruments used for data collection, such as questionnaires, information output, reports, classifications, definitions and victimological issues, with a view to making more compatible national approaches to data collecting, thus making data comparable.

DRAFT RESOLUTION II

Firearm regulation for the purpose of crime prevention and public health and safety[*]

The Economic and Social Council,

Recalling resolution 9 of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,[82]

Recalling its resolutions 1995/27, section IV.A, of 24 July 1995 and 1996/28 of 24 July 1996,

Mindful of the need for effective implementation of those resolutions,

Taking note of the report of the Secretary-General on measures to regulate firearms,[83]

Also taking note of the findings in the draft "United Nations international study on firearm regulation" prepared by the Crime Prevention and Criminal Justice Division of the Secretariat,

Further taking note of the work of the Inter-American Drug Abuse Control Commission of the Organization of American States on the question of the control of the international movement of illicit firearms and explosives, including the proposal for a model regulation for the control of the international movement of firearms,

1. *Urges* Member States that have not already replied to the draft "United Nations international study on firearm regulation" questionnaire to do so by 30 September 1997;

2. *Requests* the Secretary-General to continue the data collection and dissemination of information on firearm regulation, including, among others, the revised survey format referred to in the report of the Expert

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[*] For the discussion, see chapter IV.

[82] *Report of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Cairo, 29 April-8 May 1995* (A/CONF.169/16/Rev.1), chap. I.

[83] E/CN.15/1997/4 and Corr.1.

Group Meeting on Gathering Information on and Analysis of Firearm Regulation, and the ongoing and regular maintenance of a list of contact persons and organizations in each Member State with responsibility for the provision of such information and the enhancement of the existing database on firearm regulation;

3. *Takes note with appreciation* of the proposal by the Secretary-General to convene an ad hoc meeting[84] of representatives of relevant international organizations with a view to better coordinating the data collection that is necessary for a more complete understanding of the issues affecting firearm regulation;

4. *Requests* the Secretary-General to promote, within existing resources, technical cooperation projects that recognize the relevance of firearm regulation in addressing violence against women, in promoting justice for victims of crime and in addressing the problem of children and youth as victims and perpetrators of crime and in re-establishing or strengthening the rule of law in post-conflict peacekeeping projects;

5. *Encourages* Member States to consider, where they have not yet done so, regulatory approaches to the civilian use of firearms that include the following common elements:

(a) Regulations relating to firearm safety and storage;

(b) Appropriate penalties and/or administrative sanctions for offences involving the misuse or unlawful possession of firearms;

(c) Mitigation of, or exemption from, criminal responsibility, amnesty or similar programmes that individual Member States determine to be appropriate to encourage citizens to surrender illegal, unsafe or unwanted firearms;

(d) A licensing system, *inter alia*, including the licensing of firearm businesses, to ensure that firearms are not distributed to persons convicted of serious crimes or other persons who are prohibited under the laws of the respective Member States from owning or possessing firearms;

(e) A record-keeping system for firearms, *inter alia*, including a system for the commercial distribution of firearms and a requirement for appropriate marking of firearms at manufacture and at import, to assist criminal investigations, discourage theft and ensure that firearms are distributed only to persons who may lawfully own or possess firearms under the laws of the respective Member States;

6. *Requests* the Secretary-General to include in the provisional agenda for the four regional workshops on firearm regulation to be organized in 1997 in accordance with the work plan[85] approved by the Economic and Social Council in its resolution 1996/28, within existing resources or subject to the availability of extra-budgetary funding, *inter alia*, the possible development of a United Nations declaration of principles, based on the regulatory approaches suggested above, the collection of comparable information on firearm regulation, the provision of technical assistance, training and information-sharing and the need for implementing bilateral, regional or multilateral agreements or arrangements on combating illicit trafficking in firearms, in order to ensure that all Member States have sufficient capacity in the area of firearm regulation, and also requests that interested non-governmental organizations should each be allowed to make a statement at the regional

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[84] E/CN.15/1997/20, para. 10.

[85] *Official Records of the Economic and Social Council, 1996, Supplement No. 10* (E/1996/30), para. 73 (g).

workshops on subjects covered in their agenda but should not be permitted to attend workshop meetings where sensitive law enforcement issues will be discussed;

7. *Also requests* the Secretary-General to seek views of Member States, institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, relevant United Nations entities and intergovernmental and non-governmental organizations on the development of a declaration of principles, based on the regulatory approaches suggested above, and to submit a report containing the views received to the Commission on Crime Prevention and Criminal Justice at its seventh session;

8. *Further requests* the Secretary-General to explore ways and means of developing a programme of continuing education for criminal justice administrators and of public education and awareness-building in relation to the links between firearms in civilian use and the unacceptable levels of violence in cities, communities and families and to disseminate that information in order to encourage Member States to undertake similar programmes;

9. *Encourages* Member States to ensure the tracing of illegal firearms and accurate and prompt responses to requests from other Member States for firearm-tracing;

10. *Invites* the International Criminal Police Organization (Interpol) to review the firearm- and ballistic-tracing capabilities of its member States, with a view to advising the Commission on Crime Prevention and Criminal Justice on the adequacy of those capabilities, and to clarify and compile common firearm terminology and descriptions, preferably in the form of an index, in order to enhance the sharing of investigative information on illegal firearms among Member States;

11. *Invites* the United Nations Panel of Governmental Experts on Small Arms, established in pursuance of General Assembly resolution 50/70 B of 12 December 1995, and other relevant specialized intergovernmental organizations to provide the Commission on Crime Prevention and Criminal Justice with available information about the results of their work in relation to the unlawful proliferation of unlawful military small arms in Member States;

12. *Invites* the Customs Co-operation Council, also called the World Customs Organization, to review international customs practices relating to the movement of firearms for civilian purposes and worldwide trends in firearm smuggling, including such matters as processing of import and export licensing, monitoring, standard protocols, including a common import and export certificate, and an advance notification system, with a view to advising the Commission on Crime Prevention and Criminal Justice on the effectiveness of controls concerning the international movement of firearms;

13. *Invites* the other relevant intergovernmental organizations to re-analyse their data on issues related to firearms, within the scope of the international study on firearm regulation, with a view to informing the Commission on Crime Prevention and Criminal Justice, through the Secretary-General, of possible steps towards improving the collection and analysis of the related interdisciplinary statistics;

14. *Reiterates* its request to the Secretary-General to publish the "United Nations international study on firearm regulation" as scheduled in the work plan approved in its resolution 1996/28 and to disseminate the study as widely as possible;

15. *Encourages* Member States to disseminate the report of the Secretary-General on measures to regulate firearms and the "United Nations international study on firearm regulation" in their own countries and

to consider whether the reports are useful in evaluating whether Member States choose to undertake new initiatives in firearm regulation;

16. *Requests* the Secretary-General to prepare a report on the implementation of the present resolution and to submit it to the Commission on Crime Prevention and Criminal Justice at its seventh session;

17. *Decides* that the Commission on Crime Prevention and Criminal Justice should consider the item entitled "Measures to regulate firearms" at its seventh session, drawing on the report of the Secretary-General referred to in paragraph 16 above.

DRAFT RESOLUTION III

Measures on the prevention and control of illicit trafficking in motor vehicles[*]

The Economic and Social Council,

Alarmed by the rapid growth and geographical expansion of the illicit trafficking in motor vehicles, which increasingly transcends national borders,

Concerned about the increasing role of organized transnational crime in the theft of and illicit trafficking in motor vehicles,

Recognizing that car theft and illicit trafficking in motor vehicles, with their high costs, have adverse effects on the safety and national economies of Member States,

Recalling its resolution 1995/27, section II, paragraph 1, of 24 July 1995, in which it requested the Commission on Crime Prevention and Criminal Justice to consider measures on the prevention and suppression of illicit trafficking in motor vehicles,

Emphasizing the need for strengthened and more effective international cooperation at all levels to fight illicit trafficking in motor vehicles,

Acknowledging in particular the importance of international police cooperation in the prevention and fight against illicit trafficking in motor vehicles and the need for rapid exchange of information between States on the status and origins of motor vehicles,

Recognizing the work already undertaken by the International Criminal Police Organization in establishing a worldwide stolen vehicle database,

Welcoming the participation of and contributions made by representatives of the private sector, particularly insurance companies, insurance crime bureaux and car manufacturers, in the prevention and control of illicit trafficking in motor vehicles,

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[*] For the discussion, see chapter V.

1. *Expresses its appreciation* to the Government of Poland for acting as host to the Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996, and to the Government of the United States of America for providing financial support for that conference;

2. *Also expresses its appreciation* to the Government of the Russian Federation for acting as host to the Conference on International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles, held at Moscow from 28 February to 2 March 1997, and to the Government of the United States of America, the United Nations Development Programme and the European Institute for Crime Prevention and Control, affiliated with the United Nations, for providing financial support for that conference;

3. *Takes note* of the recommendations of the Warsaw Conference, contained in the report of the Secretary-General on measures for the prevention and suppression of illicit trafficking in motor vehicles,[86] and the Moscow Declaration, contained in annex I to the present resolution;

4. *Urges* Member States:

(a) To improve international cooperation in the prevention and control of theft of, trafficking in and other offences in connection with stolen vehicles, to negotiate and conclude, as appropriate, bilateral and/or multilateral agreements or arrangements on a simplified and effective procedure for recovering stolen vehicles that clearly define, *inter alia*, the documentation required, certification procedures, translation requirements, authorized expenses and applicability of value-added tax, taking into account the Model Bilateral Treaty for the Return of Stolen or Embezzled Vehicles, contained in annex II to the present resolution, in compliance with domestic law, and other bilateral treaties, as well as the United Nations model treaties on extradition,[87] on mutual assistance in criminal matters,[88] on the transfer of proceedings in criminal matters[89] and on the transfer of supervision of offenders conditionally sentenced or conditionally released,[90] as necessary, as useful tools in improving international cooperation in the investigation and prosecution of cases involving illicit trafficking in motor vehicles;

(b) To improve the exchange of information on the theft of and illicit trafficking in motor vehicles, to explore the possibility of establishing national databases on stolen vehicles and other pertinent information and to support the efforts of the International Criminal Police Organization by supplying their national data on stolen vehicles to the Interpol Automated Search Facility International Stolen Vehicle Database, to exchange information among themselves on a bilateral, subregional or regional basis and, through international law enforcement entities, to fight illicit trafficking in motor vehicles more effectively;

(c) To consider developing compatible registration and titling procedures and documents for motor vehicles in order to facilitate the identification of rightful owners of such vehicles by competent national authorities, to harmonize the elements contained in the registration documents of motor vehicles as a means of preventing the illicit trafficking in motor vehicles, to consider the possibility of integrating their national stolen vehicle databases into the international stolen vehicle database, to explore the possibility of establishing salvage control procedures to ensure that the title documents of wrecked vehicles are not used on stolen vehicles and to exchange information on how to improve the security features of car registration documents;

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[86] E/CN.15/1997/9.

[87] General Assembly resolution 45/116, annex, of 14 December 1990.

[88] General Assembly resolution 45/117, annex, of 14 December 1990.

[89] General Assembly resolution 45/118, annex, of 14 December 1990.

[90] General Assembly resolution 45/119, annex, of 14 December 1990.

(d) To consider making the necessary changes in their national laws and procedures to improve the response of the justice system to vehicle theft and trafficking and reduce to a minimum conflicting property issues derived from the international repatriation of stolen vehicles, taking due consideration of the interests of bona fide third parties;

(e) To make all possible efforts to strengthen their cooperation in this field, at the bilateral, regional and interregional levels, *inter alia*, by:

(i) Actively promoting close operational cooperation and exchange of information among competent national authorities across national borders to detect, apprehend and bring to justice persons engaged in trafficking in stolen vehicles and to promote close cooperation among other relevant agencies to ensure the return of stolen vehicles to their rightful owners, in accordance with national laws;

(ii) To respond promptly to requests by law enforcement agencies in other States for assistance in the recovery of stolen vehicles;

(f) To study the possibility of adopting a standard world vehicle identification number system to be applied to all vehicles manufactured within or exported to Member States;

5. *Requests* the Secretary-General, within existing resources or subject to the availability of extrabudgetary resources:

(a) To elaborate a training manual for law enforcement and customs personnel on the prevention and control of trafficking in stolen and misappropriated vehicles, for use in the provision of practical assistance to requesting Member States, as well as a comprehensive training manual on vehicle identification;

(b) To develop and carry out training programmes in States requesting technical assistance for law enforcement and customs personnel on the recovery of stolen vehicles;

(c) To provide advisory services to requesting Member States for the elaboration or reform of pertinent legislation, as well as for the development of bilateral, multilateral and/or regional treaties in this area;

(d) To continue conducting research on the scope, methods and organization of groups engaged in the theft of and illicit trafficking in motor vehicles;

6. *Invites* Member States and the private sector to assist the Secretary-General in undertaking the activities contained in paragraph 5 above;

7. *Recommends* that the fight against the theft of and trafficking in stolen vehicles should take into account recent progress in anti-theft and immobilizing systems, as well as other possibilities offered by new technologies;

8. *Recommends* that authorities, vehicle manufacturers, insurance companies and equipment manufacturers should in conjunction with the efforts made by government authorities, further study and improve systems for identifying vehicles and spare parts, sharing their findings with the relevant law enforcement agencies;

9. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the Commission on Crime Prevention and Criminal Justice at its eighth session.

Annex I

MOSCOW DECLARATION

We participants gathered at the Conference on International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles, held at Moscow on 28 February - 2 March 1997,

1) endorse the recommendations of the Warsaw Conference on Theft of, and Illicit Trafficking in Motor Vehicles (2-3 December 1996).

Among the various issues emerging from the Warsaw Conference, we recommend the following points for immediate action by Governments:

a) as a first priority, to support the development of the Interpol ASF International Stolen Vehicle Database;

b) to establish national centralized vehicle registration systems based on a standard set of data, which include the physical description and identifying numbers of the motor vehicle as well as details of the registered owner or keeper;

c) to request that vehicles written off by insurers are reported to the centralized vehicle registration system, or alternatively, that authorities check with private data bases which keep such records, in order to prevent the vehicle identification number (VIN) of a vehicle that has been written off from being used to hide the identity of a stolen vehicle;

d) to find appropriate means in order to ensure that prior to registration of an imported vehicle, national authorities confirm that a vehicle has not been reported stolen in any country of prior registration, *inter alia*, using the Interpol ASF system;

e) to promote the adoption of a standard world VIN system format applying to all vehicles manufactured within the country or exported to other countries, to provide for the secure marking of identifying numbers on component parts of the vehicles, and to encourage the keeping of such records by manufacturers and their being made available to relevant law enforcement agencies;

f) to consider mandating the installation of effective security devices by manufacturers, including effective immobilizers and perimeter security;

g) to conclude on a bilateral or multilateral basis agreements on the return of stolen vehicles based on the Model Treaty for the Return of Stolen or Embezzled Vehicles, contained in the appendix to the Warsaw recommendations; and

h) to promote better operational cooperation and exchange of information among the relevant la enforcement and other agencies at the national and international levels.

2) draw to the attention of the Commission on Crime Prevention and Criminal Justice of the United Natior the following:

a) the elaboration and the implementation of the technical cooperation activities to be requested of th Secretary-General in accordance with paragraph 2(g) of the Warsaw recommendations; such activities shoul include the elaboration of a comprehensive training manual on vehicle identification; and

b) in the context of technical assistance and training, the continuation of research on the scope, methods an organization of groups engaged in vehicles theft and trafficking.

3) urge States and the private sector to assist the Secretary-General in undertaking the activities referred t in paragraph 2) above.

4) invite the Commission to keep this topic and the measures taken by Governments to implement thes recommendations under constant review.

Annex II

MODEL BILATERAL TREATY FOR THE RETURN OF STOLEN OR EMBEZZLED VEHICLES

(*The Government of* [country name] *and the Government of* [country name],[91])

or

(*The States Parties to the present Treaty,*[92])

Recognizing the growing problem of theft of and illicit trafficking in motor vehicles,

Considering the difficulties faced by innocent owners in securing the return of motor vehicles stolen c embezzled in the territory of one Party that are recovered in the territory of another Party,

Desiring to eliminate such difficulties and to regularize procedures for the expeditious return of suc vehicles,

Have agreed as follows:

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[91] This provision would be applicable to bilateral agreements.

[92] This provision would be applicable to subregional or regional agreements.

Article 1

For the purposes of the present Treaty:

(a) A "vehicle" shall mean any automobile, truck, bus, motorcycle, motorhome, or trailer;

(b) A vehicle shall be considered "stolen" when possession thereof has been obtained without the consent of the owner or other person legally authorized to use such motor vehicle;

(c) A vehicle shall be considered "embezzled" when:

(i) It is unlawfully converted by the person who had rented it from an enterprise legally authorized for that purpose and in the normal course of business; or

(ii) It is unlawfully converted by a person with whom it has been deposited by official or judicial action;

(d) All references to "days" shall mean calendar days.

Article 2

Each Party agrees to return, in accordance with the terms of the present Treaty, vehicles that are:

(a) Registered, titled or otherwise documented in the territory of a Party;

(b) Stolen or embezzled in the territory of a Party; and

(c) Found in the territory of a Party.

Article 3

1. Whenever police, customs or other authorities of a Party impound or seize a vehicle that they have reason to believe is registered, titled or otherwise documented in the territory of another Party, the first Party shall, within [thirty] days of such impoundment or seizure, notify, in writing, [the Embassy] of the other Party that its authorities have custody of the motor vehicle.

2. Such notification shall include all available identifying data about the vehicle of the type listed in appendix I to the present Treaty, a description of the condition of the motor vehicle, the current location of the vehicle, the identity of the authority with physical custody of the vehicle and [any] information that indicates whether it was being used in connection with the commission of a crime.

Article 4

Authorities of the Party who have impounded or seized a vehicle that they have reason to believe is registered, titled or otherwise documented in the territory of another Party shall promptly take it to a storage area and shall take reasonable steps regarding the safekeeping of the vehicle. The said authorities shall not thereafter operate, auction, dismantle or otherwise alter or dispose of the vehicle. However, the present Treaty shall not preclude the said authorities from operating, auctioning, dismantling or otherwise altering or disposing of the vehicle if:

(a) No request for the return of the vehicle is filed within [sixty] days of the notification made pursuant to Article 3 above;

(b) A determination is made in accordance with Article 7, paragraph 1, below that a request for the return of the vehicle does not meet the requirements of the present Treaty and notification of such determination has been made in accordance with Article 7, paragraph 3;

(c) The vehicle has not been retrieved, within the time period stated in Article 7, paragraph 2, below by the person identified in the request for return as the owner or the owner's authorized representative after the vehicle has been made available as provided in Article 7, paragraph 2; or

(d) There is no obligation under the present Treaty pursuant to Article 8, paragraphs 2 or 3, below to return the vehicle.

Article 5

1. After receiving a notification made pursuant to Article 3, above a Party may submit a request for the return of the vehicle.

2. The request for return [shall be transmitted under seal of a consular officer of the Requesting Party and] shall follow the form shown in appendix II to the present Treaty. A copy of the request shall be transmitted under cover of a note to the [Ministry of Foreign Affairs] of the Requested Party. A request shall be made only after receipt by the consular officer of properly notarized certified copies of the following documents:

(a)(i) The title of ownership to the vehicle, if the vehicle is subject to titling, but, if a title is not available, a certified statement from the titling authority that the motor vehicle is titled and specifying the person or entity to whom it is titled;

(ii) The certificate of registration of the vehicle, if the vehicle is subject to registration, but, if the registration document is not available, a certified statement from the registering authority that the vehicle is registered and specifying the person or entity to whom it is registered;

(iii) The bill of sale or other documentation that establishes ownership of the vehicle, in the event the vehicle is not titled or registered;

(b) The document of transfer, if, subsequent to the theft or embezzlement of the vehicle, the owner at the time of the theft or embezzlement has transferred ownership to a third party;

(c) The theft report, made within a reasonable time to a competent authority in the Requesting Party, and a translation thereof. In the event that the theft report is made after the vehicle is seized or otherwise comes into possession of the Requested Party, the person seeking its return shall furnish a document justifying the reasons for the delay in reporting the theft and may provide any supporting documentation therefor; and

(d) In cases in which the person requesting the return of a vehicle is not the owner, a power of attorney, granted in the presence of a notary public by the owner or his legal representative, authorizing that person to recover the vehicle.

3. Except as noted in paragraph 2 (c) above, translations of documents need not be provided. The requirement for translation of a theft report may be waived by authorities of the Requested Party. No further legalization or authentication of documents will be required by the Requested Party.

Article 6

If a Party learns, through means other than a notification made pursuant to Article 3 above, that the authorities of another Party may have impounded, seized or otherwise taken possession of a vehicle that may be registered or otherwise documented in the territory of the first Party, that Party:

(a) May, through a note to the [Ministry of Foreign Affairs] of the other Party, seek official confirmation of this and may request the other Party to provide the notification described in Article 3, in which case the other Party shall either provide the notification or explain, in writing, why notification is not required; and

(b) May also, in appropriate cases, submit a request for the return of the vehicle as described in Article 5 above.

Article 7

1. Except as provided for in Article 8 below, the Requested Party shall, within [thirty] days of receiving a request for the return of a stolen or embezzled vehicle, determine whether the request for return meets the requirements of the present Treaty and shall notify [the Embassy] of the Requesting Party of its determination.

2. If the Requested Party determines that the request for the return of a stolen or embezzled vehicle meets the requirements of the present Treaty, the Requested Party shall within [fifteen] days of such determination make the vehicle available to the person identified in the request for return as the owner or the owner's authorized representative. The vehicle shall remain available for the person identified in the request for return as the owner or the owner's authorized representative to take delivery for at least [ninety] days. The Requested Party shall take necessary measures to permit the owner or the owner's authorized representative to take delivery of the vehicle and return it to the territory of the Requesting Party.

3. If the Requested Party determines that the request for return does not meet the requirements of the present Treaty, it shall provide written notification to [the Embassy] of the Requesting Party.

Article 8

1. If a vehicle whose return is requested is being held in connection with a criminal investigation or prosecution, its return pursuant to the present Treaty shall be effected when its presence is no longer required for purposes of that investigation or prosecution. The Requested Party shall, however, take all practicable measures to assure that substitute pictorial or other evidence is used wherever possible in such investigation or prosecution so that the vehicle may be returned as soon as possible.

2. If the ownership or custody of a vehicle whose return is requested is the subject of a pending judicial action in the Requested Party, its return pursuant to the present Treaty shall be effected at the conclusion of that judicial action. However, a Party shall have no obligation under the Treaty to return the vehicle if such judicial action results in the award of the vehicle to a person other than the person identified in the request for return as the owner of the vehicle or the owner's authorized representative.

3. A Party shall have no obligation under the present Treaty to return a vehicle whose return is requested if the vehicle is subject to forfeiture under its laws because it was used in its territory for the commission of a crime. The Requested Party shall not forfeit the vehicle without giving the owner or the owner's authorized representative reasonable notice and an opportunity to contest such forfeiture in accordance with its laws.

4. A Party shall have no obligation under the present Treaty to return a stolen or embezzled vehicle if no request for return is made within [sixty] days of a notification made pursuant to Article 3 above.

5. If the return of a stolen or embezzled vehicle whose return is requested is postponed, pursuant to paragraphs 1 or 2 of the present Article, the Requested Party shall so notify [the Embassy] of the Requesting Party in writing within [thirty] days of receiving a request for the return of the vehicle.

Article 9

1. The Requested Party shall not impose any import or export duties, taxes, fines or other monetary penalties or charges on vehicles returned in accordance with the present Treaty, or on their owners or authorized representatives, as a condition for the return of such vehicles.

2. Actual expenses incurred in the return of the vehicle, including towing costs, storage costs, maintenance costs, transportation costs, and costs of translation of documents required under the present Treaty, shall be borne by the person or entity seeking its return and shall be paid prior to the return of the vehicle. The Requested Party shall use its best efforts to keep such expenses at reasonable levels.

3. In particular cases, the expenses of return may include the costs of any repairs or reconditioning of a vehicle which may have been necessary to permit the vehicle to be moved to a storage area or to maintain it in the condition in which it was found. The person or entity seeking the return of a vehicle shall not be responsible for the costs of any other work performed on the vehicle while it was in the custody of the authorities of the Requested Party.

Article 10

The mechanisms for the recovery and return of stolen or embezzled vehicles under the present Treaty shall be in addition to those available under the laws of the Requested Party. Nothing in the Treaty shall impai any rights for the recovery of stolen or embezzled vehicles under applicable law.

Article 11

1. Any differences regarding the interpretation or application of the present Treaty shall be resolve through consultations between the Parties.

2. The present Treaty shall be subject to ratification. It shall enter into force on the date of exchange of instruments of ratification.

3. The present Treaty may be terminated by either Party upon a minimum of [ninety] days' written notification.[93]

DONE at [site], this _______ day of _________, ____, in duplicate, in the _________ and _________ languages, both texts being equally authentic.

Appendix I

IDENTIFYING INFORMATION TO BE PROVIDED IN A NOTIFICATION MADE PURSUANT TO ARTICLE 3

1. Vehicle identification number.

2. Name of manufacturer of vehicle.

3. Vehicle model and year of manufacture, if known.

4. Colour of vehicle.

5. Licence plate number of vehicle and jurisdiction of issuance, if available.

6. City/other jurisdiction tag or sticker number and name of city/other jurisdiction, if available.

7. A description of the condition of the vehicle, including mobility of vehicle, if known, and repairs that appear necessary.

8. The current location of the vehicle.

9. The identity of the authority having physical custody of the vehicle and a contact point, including name, address and telephone number, of the official having recovery information.

10. Any information which indicates whether the vehicle was being used in connection with the commission of a crime.

11. Whether it appears that the vehicle may be subject to forfeiture under the laws of the notifying State.

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[93] Applicable to bilateral agreements. Other suitable provisions, in accordance with international law and standard practice, would need to be inserted for subregional or regional agreements.

Appendix II

REQUEST FOR THE RETURN OF A STOLEN OR EMBEZZLED VEHICLE

[The Embassy of [country name]] respectfully requests that (the appropriate authority of) [country nam return the vehicle described below to (its owner/its owner's authorized representative) in accordance with t Treaty for the Return of Stolen or Embezzled Vehicles:

Make:
Model (year):
Type:
Vehicle identification number:
Licence plates:
Registered owner:

[The Embassy of [country name]] certifies that it has examined the following documents, which ha been presented by (identity of person submitting documents) as evidence of (his or her ownership of t vehicle/ownership of the vehicle by the person for whom he or she is acting as authorized representative) a found them to be properly certified under the laws of (appropriate jurisdiction):

(*a*) (Document description);
(*b*) (Document description);
(*c*) (Document description);
(*d*) (Document description).

Complimentary close
Place and date
Attachments

DRAFT RESOLUTION IV

Administration of juvenile justice[*]

The Economic and Social Council,

Recalling General Assembly resolution 50/181 of 22 December 1995, on human rights in t administration of justice, Commission on Human Rights resolutions 1996/85 of 24 April 1996 and 1997/44 11 April 1997, on the rights of the child, and resolution 7 of the Ninth United Nations Congress on t Prevention of Crime and the Treatment of Offenders,[94]

Recalling also its resolution 1996/13 of 23 July 1996, on the administration of juvenile justice,

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[*] For the discussion, see chapter VII.

[94] *Report of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Ca 29 April-8 May 1995* (A/CONF.169/16/Rev.1), chap. I.

Recalling further Commission on Human Rights resolution 1996/32 of 19 April 1996, on human rights in the administration of justice, in particular with regard to children and juveniles in detention,

Welcoming the fact that the Committee on the Rights of the Child attaches particular importance to the question of the administration of juvenile justice and that it has made concrete recommendations concerning the improvement of juvenile justice systems, through action by the Secretariat and other relevant United Nations entities, including the provision of advisory services and technical cooperation,

Noting the importance of advisory services and technical cooperation programmes for assisting States in implementing such recommendations,

Expressing its appreciation to the Government of Austria for having hosted an expert group meeting at Vienna from 23 to 25 February 1997 on the elaboration of a programme of action to promote the effective use and application of international standards and norms in juvenile justice,

Recognizing the need to further strengthen international cooperation and technical assistance in the field of juvenile justice,

1. *Welcomes* the Guidelines for Action on Children in the Criminal Justice System, annexed to the present resolution, which were elaborated by the expert group meeting held at Vienna from 23 to 25 February 1997 in response to its resolution 1996/13 and amended by the Commission on Crime Prevention and Criminal Justice at its sixth session, and invites all parties concerned to make use of the Guidelines for Action in the implementation of the provisions of the Convention on the Rights of the Child[95] with regard to juvenile justice;

2. *Encourages* Member States to make use of technical assistance offered by United Nations programmes, including in particular the United Nations Crime Prevention and Criminal Justice Programme, in order to strengthen national capacities and infrastructures in the field of juvenile justice, with a view to fully implementing the provisions of the Convention on the Rights of the Child relating to juvenile justice, as well as making effective use and application of the United Nations standards and norms in juvenile justice;

3. *Invites* the Crime Prevention and Criminal Justice Division of the Secretariat, the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights of the Secretariat, the United Nations Children's Fund and other relevant United Nations bodies and programmes to give favourable consideration to requests of Member States for technical assistance in the field of juvenile justice;

4. *Calls on* Member States to contribute financial and other resources to project activities designed to assist in the use of the Guidelines for Action;

5. *Invites* the Secretary-General to strengthen the system-wide coordination of activities in the field of juvenile justice, including the prevention of juvenile delinquency, particularly with regard to research, dissemination of information, training, effective use and application of existing standards and norms, as well as the implementation of technical assistance projects;

6. *Also invites* the Secretary-General to consider establishing a coordination panel on technical advice and assistance in juvenile justice, subject to the availability of regular budget or extrabudgetary funds, as

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[95] General Assembly resolution 44/25, annex, of 20 November 1989.

recommended in the Guidelines for Action, which could be convened at least annually with a view to coordinating such international activities in the field of juvenile justice and could consist of representatives from the Committee on the Rights of the Child, the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, the Crime Prevention and Criminal Justice Division, together with the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, the United Nations Childre's Fund, and the United Nations Development Programme, and other relevant United Nations organizations and specialized agencies, as well as other interested intergovernmental, regional and non-governmental organizations, including international networks concerned with juvenile justice issues and academic institutions involved in the provision of technical advice and assistance;

7. *Invites* the Secretary-General to undertake, subject to the availability of regular budget or extrabudgetary funds and in cooperation with interested Governments, needs assessment missions on the basis of recommendations made by the Committee on the Rights of the Child, with a view to reforming or improving juvenile justice systems of requesting States, through joint initiatives involving, as required, the Crime Prevention and Criminal Justice Division, the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees, the United Nations Children's Fund, the United Nations Development Programme, the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the World Bank and other international and regional financial institutions and organizations, as well as non-governmental organizations and academic institutions, including existing international networks concerned with juvenile justice issues, taking into account the advice of any panel referred to in paragraph 6 above;

8. *Requests* those organizations, subject to the availability of regular budget or extrabudgetary funds, as well as interested Governments, to offer assistance through short-, medium- and long-term projects to those States parties to the Convention on the Rights of the Child which the Committee on the Rights of the Child considers to be in need of improvement in their juvenile justice systems and recommends that such projects should be undertaken in the context of the report of the States parties concerned on the implementation of the Convention, in accordance with article 44 of the Convention;

9. *Invites* the governing bodies of the organizations referred to in paragraph 7 above to include in their programme activities a component on juvenile justice, with a view to ensuring the implementation of the present resolution;

10. *Further requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice on the implementation of the present resolution on a biennial basis.

Annex

GUIDELINES FOR ACTION ON CHILDREN IN THE CRIMINAL JUSTICE SYSTEM

1. Pursuant to Economic and Social Council resolution 1996/13 of 23 July 1996, the present Guidelines for Action were developed at an expert group meeting held at Vienna from 23 to 25 February 1997 with the financial support of the Government of Austria. In developing the Guidelines for Action, the experts took into account the views expressed and the information submitted by Governments.

2. Twenty-nine experts from 11 States in different regions, representatives of the Centre for Human Rights of the Secretariat, the United Nations Children's Fund (UNICEF) and the Committee on the Rights of the Child,

as well as observers from non-governmental organizations concerned with juvenile justice, participated in the meeting.

3. The Guidelines for Action are addressed to the Secretary-General and relevant United Nations agencies and programmes, States parties to the Convention on the Rights of the Child,[96] as regards its implementation, as well as Member States as regards the use and application of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules),[97] the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)[98] and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,[99] hereinafter together referred to as United Nations standards and norms in juvenile justice.

I. AIMS, OBJECTIVES AND BASIC CONSIDERATIONS

4. The aims of the Guidelines for Action are to provide a framework to achieve the following:

(a) To implement the Convention on the Rights of the Child and to pursue the goals set forth in the Convention with regard to children in the context of the administration of juvenile justice, as well as to use and apply the United Nations standards and norms in juvenile justice and other related instruments, such as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;[100]

(b) To facilitate the provision of assistance to States parties for the effective implementation of the Convention on the Rights of the Child and related instruments.

5. In order to ensure effective use of the Guidelines for Action, improved cooperation between Governments, relevant entities in the United Nations system, non-governmental organizations, professional groups, the media, academic institutions, children and other members of civil society is essential.

6. The Guidelines for Action should be based on the principle that the responsibility to implement the Convention clearly rests with the States parties thereto.

7. The basis for the use of the Guidelines for Action should be the recommendations of the Committee on the Rights of the Child.

8. In the use of the Guidelines for Action at both the international and national levels, consideration should be given to the following:

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[96] General Assembly resolution 44/25, annex, of 20 November 1989.

[97] General Assembly resolution 44/33, annex, of 29 November 1989.

[98] General Assembly resolution 45/112, annex, of 14 December 1990.

[99] General Assembly resolution 45/113, annex, of 14 December 1990.

[100] General Assembly resolution 40/34, annex, of 20 November 1985.

(a) Respect for human dignity, compatible with the four general principles underlying the Convention, namely: non-discrimination, including gender-sensitivity; upholding the best interests of the child; right to life, survival and development; and respect for the views of the child;

(b) A rights-based orientation;

(c) A holistic approach to implementation through maximization of resources and efforts;

(d) The integration of services on an interdisciplinary basis;

(e) Participation of children and concerned sectors of society;

(f) Empowerment of partners through a developmental process;

(g) Sustainability without continuing dependency on external bodies;

(h) Equitable application and accessibility to those in greatest need;

(i) Accountability and transparency of operations;

(j) Proactive responses based on effective preventive and remedial measures.

9. Adequate resources (human, organizational, technological, financial and information) should be allocated and utilized efficiently at all levels (international, regional, national, provincial and local) and in collaboration with relevant partners, including Governments, United Nations entities, non-governmental organizations, professional groups, the media, academic institutions, children and other members of civil society, as well as other partners.

II. PLANS FOR THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD, THE PURSUIT OF ITS GOALS AND THE USE AND APPLICATION OF INTERNATIONAL STANDARDS AND NORMS IN JUVENILE JUSTICE

A. Measures of general application

10. The importance of a comprehensive and consistent national approach in the area of juvenile justice should be recognized, with respect for the interdependence and indivisibility of all rights of the child.

11. Measures relating to policy, decision-making, leadership and reform should be taken, with the goal of ensuring that:

(a) The principles and provisions of the Convention on the Rights of the Child and the United Nations standards and norms in juvenile justice are fully reflected in national and local legislation policy and practice, in particular by establishing a child-oriented juvenile justice system that guarantees the rights of children, prevents the violation of the rights of children, promotes children's sense of dignity and worth, and fully respects their age, stage of development and their right to participate meaningfully in, and contribute to, society;

(b) The relevant contents of the above-mentioned instruments are made widely known to children in language accessible to children. In addition, if necessary, procedures should be established to ensure that each and every child is provided with the relevant information on his or her rights set out in those instruments, at least from his or her first contact with the criminal justice system, as well as reminding the child of his or her obligation to obey the law;

(c) The public's and the media's understanding of the spirit, aims and principles of justice centred on the child is promoted, in accordance with the United Nations standards and norms in juvenile justice.

B. Specific targets

12. States should ensure the effectiveness of their birth registration programmes. In those instances where the age of the child involved in the justice system is unknown, measures should be taken to ensure that the true age of a child is ascertained by independent and objective assessment.

13. Notwithstanding the age of criminal responsibility, civil majority and the age of consent as defined by national legislation, States should ensure that children benefit from all their rights, as guaranteed to them by international law, specifically in this context those set forth in articles 3, 37 and 40 of the Convention.

14. Particular attention should be given to the following points:

(a) There should be a comprehensive child-centred juvenile justice process;

(b) Independent expert or other types of panels should review existing and proposed juvenile justice laws and their impact on children;

(c) No child who is under the legal age of criminal responsibility should be subject to criminal charges;

(d) States should establish juvenile courts with primary jurisdiction over juveniles who commit criminal acts and special procedures designed to take into account the specific needs of children. As an alternative, regular courts should incorporate such procedures, as appropriate. Wherever necessary, national legislative and other measures should be considered to accord all the rights of and protection for the child, where the child is brought before a court other than a juvenile court, in accordance with articles 3, 37 and 40 of the Convention.

15. A review of existing procedures should be undertaken and, where possible, diversion or other alternative initiatives to the classical criminal justice systems should be developed to avoid recourse to the criminal justice systems for young persons accused of an offence. Appropriate steps should be taken to make available throughout the State a broad range of alternative and educative measures at the pre-arrest, pre-trial, trial and post-trial stages, in order to prevent recidivism and promote the social rehabilitation of child offenders. Whenever appropriate, mechanisms for the informal resolution of disputes in cases involving a child offender should be utilized, including mediation and restorative justice practices, particularly processes involving victims. In the various measures to be adopted, the family should be involved, to the extent that it operates in favour of the good of the child offender. States should ensure that alternative measures comply with the Convention, the United Nations standards and norms in juvenile justice, as well as other existing standards and norms in crime prevention and criminal justice, such as the United Nations Standard Minimum Rules for

Non-custodial Measures (The Tokyo Rules),[101] with special regard to ensuring respect for due process rules in applying such measures and for the principle of minimum intervention.

16. Priority should be given to setting up agencies and programmes to provide legal and other assistance to children, if needed free of charge, such as interpretation services, and, in particular, to ensure that the right of every child to have access to such assistance from the moment that the child is detained is respected in practice.

17. Appropriate action should be ensured to alleviate the problem of children in need of special protection measures, such as children working or living on the streets or children permanently deprived of a family environment, children with disabilities, children of minorities, immigrants and indigenous peoples and other vulnerable groups of children.

18. The placement of children in closed institutions should be reduced. Such placement of children should only take place in accordance with the provisions of article 37 (b) of the Convention and as a matter of last resort and for the shortest period of time. Corporal punishment in the child justice and welfare systems should be prohibited.

19. The United Nations Rules for the Protection of Juveniles Deprived of their Liberty and article 37 (d) of the Convention also apply to any public or private setting from which the child cannot leave at will, by order of any judicial, administrative or other public authority.

20. In order to maintain a link between the detained child and his or her family and community, and to facilitate his or her social reintegration, it is important to ensure easy access by relatives and persons who have a legitimate interest in the child to institutions where children are deprived of their liberty, unless the best interests of the child would suggest otherwise.

21. An independent body to monitor and report regularly on conditions in custodial facilities should be established, if necessary. Monitoring should take place within the framework of the United Nations standards and norms in juvenile justice, in particular the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. States should permit children to communicate freely and confidentially with the monitoring bodies.

22. States should consider positively requests from concerned humanitarian, human rights and other organizations for access to custodial facilities, where appropriate.

23. In relation to children in the criminal justice system, due account should be taken of concerns raised by intergovernmental and non-governmental organizations and other interested parties, in particular systemic issues, including inappropriate admissions and lengthy delays that impact on children deprived of their liberty.

24. All persons having contact with, or being responsible for, children in the criminal justice system should receive education and training in human rights, the principles and provisions of the Convention and other United Nations standards and norms in juvenile justice as an integral part of their training programmes. Such persons include: police and other law enforcement officials; judges and magistrates, prosecutors, lawyers and administrators; prison officers and other professionals working in institutions where children are deprived of their liberty; and health personnel, social workers, peacekeepers and other professionals concerned with juvenile justice.

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[101] General Assembly resolution 45/110, annex, of 14 December 1990.

25. In the light of existing international standards, States should establish mechanisms to ensure a prompt, thorough and impartial investigation into allegations against officials of deliberate violation of the fundamental rights and freedoms of children. States should equally ensure that those found responsible are duly sanctioned.

C. Measures to be taken at the international level

26. Juvenile justice should be given due attention internationally, regionally and nationally, including within the framework of the United Nations system-wide action.

27. There is an urgent need for close cooperation between all bodies in this field, in particular, the Crime Prevention and Criminal Justice Division of the Secretariat, the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees, UNICEF, the United Nations Development Programme (UNDP), the Committee on the Rights of the Child, the International Labour Organization, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the World Health Organization. In addition, the World Bank and other international and regional financial institutions and organizations, as well as non-governmental organizations and academic institutions, are invited to support the provision of advisory services and technical assistance in the field of juvenile justice. Cooperation should therefore be strengthened in particular with regard to research, dissemination of information, training, implementation and monitoring of the Convention on the Rights of the Child, use and application of existing standards, as well as in the provision of technical advice and assistance programmes, for example by making use of existing international networks on juvenile justice.

28. The effective implementation of the Convention on the Rights of the Child, as well as the use and application of international standards through technical cooperation and advisory service programmes, should be ensured by giving particular attention to the following aspects related to protecting and promoting human rights of children in detention, strengthening the rule of law and improving the administration of the juvenile justice system:

(a) Assistance in legal reform;

(b) Strengthening national capacities and infrastructures;

(c) Training programmes for police and other law enforcement officials, judges and magistrates, prosecutors, lawyers, administrators, prison officers and other professionals working in institutions where children are deprived of their liberty, health personnel, social workers, peacekeepers and other professionals concerned with juvenile justice;

(d) Preparation of training manuals;

(e) Preparation of information and education material to inform children about their rights in juvenile justice;

(f) Assistance with the development of information and management systems.

29. Close cooperation should be maintained between the Crime Prevention and Criminal Justice Division and the Department of Peacekeeping Operations of the Secretariat in view of the relevance of the protection of children's rights in peacekeeping operations, including the problems of children and youth as victims and perpetrators of crime in peace-building and post-conflict or other emerging situations.

D. Mechanisms for the implementation of technical advice and assistance projects

30. In accordance with articles 43, 44 and 45 of the Convention, the Committee on the Rights of the Child reviews the reports of States parties on the implementation of the Convention. According to article 44 of the Convention, these reports should indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the Convention.

31. States parties to the Convention are invited to provide in their initial and periodic reports comprehensive information, data and indicators on the implementation of the provisions of the Convention and on the use and application of the United Nations standards and norms in juvenile justice.[102]

32. As a result of the process of examining the progress made by States parties in fulfilling their obligations under the Convention, the Committee may make suggestions and general recommendations to the State party to ensure full compliance with the Convention (in accordance with article 45 (d) of the Convention). In order to foster the effective implementation of the Convention and to encourage international cooperation in the area of juvenile justice, the Committee transmits, as it may consider appropriate, to specialized agencies, UNICEF and other competent bodies any reports from States parties that contain a request, or indicate a need, for advisory services and technical assistance, together with observations and suggestions of the Committee, if any, on those requests or indications (in accordance with article 45 (b) of the Convention).

33. Accordingly, should a State party report and the review process by the Committee reveal any necessity to initiate reform in the area of juvenile justice, including through assistance by the United Nations technical advice and assistance programmes or those of the specialized agencies, the State party may request such assistance, including from the Division, the Centre for Human Rights and UNICEF.

34. In order to provide adequate assistance in response to those requests, a coordination panel on technical advice and assistance in juvenile justice should be established, to be convened at least annually by the Secretary-General. The panel will consist of representatives from the Division, the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, UNICEF, UNDP, the Committee on the Rights of the Child, the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network and other relevant United Nations entities, as well as other interested intergovernmental, regional and non-governmental organizations, including international networks on juvenile justice and academic institutions involved in the provision of technical advice and assistance, in accordance with paragraph 39 below.

35. Prior to the first meeting of the coordination panel, a strategy should be elaborated for addressing the issue of how to activate further international cooperation in the field of juvenile justice. The coordination panel should also facilitate the identification of common problems, the compilation of examples of good practice and the analysis of shared experiences and needs, which in turn would lead to a more strategic approach to needs assessment and to effective proposals for action. Such a compilation would allow for concerted advisory services and technical assistance in juvenile justice, including an early agreement with the Government requesting such assistance, as well as with all other partners having the capacity and competence to implement the various segments of a country project, thus ensuring the most effective and problem-oriented action. This

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[102] See the general guidelines regarding the form and contents of periodic reports to be submitted by States parties under article 44, paragraph 1 (b) of the Convention, adopted by the Committee at its 343rd meeting (thirteenth session) on 11 October 1996 (CRC/C/58); and, for a summary of discussions on the topic of the special thematic day of the Committee on the Rights of the Child on the administration of juvenile justice, see the report of the tenth session of the Committee on the Rights of the Child (Geneva, 30 October-17 November 1995) (CRC/C/46, pp. 33-39).

compilation should be continuously developed in close cooperation with all parties involved. It will take into account the possible introduction of diversion programmes and measures to improve the administration of juvenile justice, to reduce the use of remand homes and pre-trial detention, to improve the treatment of children deprived of their liberty and to create effective reintegration and recovery programmes.

36. Emphasis should be placed on formulating comprehensive prevention plans, as called for by the Riyadh Guidelines. Projects should focus on strategies to socialize and integrate all children and young persons successfully, in particular through the family, the community, peer groups, schools, vocational training and the world of work. These projects should pay particular attention to children in need of special protection measures, such as children working or living on the streets or children permanently deprived of a family environment, children with disabilities, children of minorities, immigrants and indigenous peoples and other vulnerable groups of children. In particular, the placement of these children in institutions should be proscribed as much as possible. Measures of social protection should be developed in order to limit the risks of criminalization for these children.

37. The strategy will also set out a coordinated process for the delivery of international advisory services and technical assistance to States parties to the Convention, on the basis of joint missions to be undertaken, whenever appropriate, by staff of the different organizations and agencies involved, with a view to devising longer-term technical assistance projects.

38. Important actors in the delivery of advisory services and technical assistance programmes at the country level are the United Nations resident coordinators, with significant roles to be played by the field offices of the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, UNICEF and UNDP. The vital nature of the integration of juvenile justice technical cooperation in country planning and programming, including through the United Nations country strategy note, is emphasized.

39. Resources must be mobilized for both the coordinating mechanism of the coordination panel and regional and country projects formulated to improve observance of the Convention. Resources for those purposes (see paragraphs 34 to 38 above) will come either from regular budgets or from extrabudgetary resources. Most of the resources for specific projects will have to be mobilized from external sources.

40. The coordination panel may wish to encourage, and in fact be the vehicle for, a coordinated approach to resource mobilization in this area. Such resource mobilization should be on the basis of a common strategy as contained in a programme document drawn up in support of a global programme in this area. All interested United Nations bodies and agencies as well as non-governmental organizations that have a demonstrated capacity to deliver technical cooperation services in this area should be invited to participate in such a process.

E. Further considerations for the implementation of country projects

41. One of the obvious tenets in juvenile delinquency prevention and juvenile justice is that long-term change is brought about when not only are symptoms treated but root causes are also addressed. For example, excessive use of juvenile detention will be adequately dealt with only by applying a comprehensive approach, which involves both organizational and managerial structures at all levels of investigation, prosecution and the judiciary, as well as the penitentiary system. This requires communication, *inter alia*, with and among police, prosecutors, judges and magistrates, authorities of local communities, administration authorities and with the relevant authorities of detention centres. In addition, it requires the will and ability to cooperate closely with each other.

42. To prevent further overreliance on criminal justice measures to deal with children's behaviour, efforts should be made to establish and apply programmes aimed at strengthening social assistance, which would allow for the diversion of children from the justice system, as appropriate, as well as improving the application of non-custodial measures and reintegration programmes. To establish and apply such programmes, it is necessary to foster close cooperation between the child justice sectors, different services in charge of law enforcement, social welfare and education sectors.

III. PLANS CONCERNED WITH CHILD VICTIMS AND WITNESSES

43. In accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, States should undertake to ensure that child victims and witnesses are provided with appropriate access to justice and fair treatment, restitution, compensation and social assistance. If applicable, measures should be taken to prevent the settling of penal matters through compensation outside the justice system, when doing so is not in the best interests of the child.

44. Police, lawyers, the judiciary and other court personnel should receive training in dealing with cases where children are victims. States should consider establishing, if they have not yet done so, specialized offices and units to deal with cases involving offences against children. States should establish, as appropriate, a code of practice for proper management of cases involving child victims.

45. Child victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm they have suffered.

46. Child victims should have access to assistance that meets their needs, such as advocacy, protection, economic assistance, counselling, health and social services, social reintegration and physical and psychological recovery services. Special assistance should be given to those children who are disabled or ill. Emphasis should be placed upon family and community-based rehabilitation rather than institutionalization.

47. Judicial and administrative mechanisms should be established and strengthened where necessary to enable child victims to obtain redress through formal or informal procedures that are prompt, fair and accessible. Child victims and/or their legal representatives should be informed accordingly.

48. Access should be allowed to fair and adequate compensation for all child victims of violations of human rights, specifically torture and other cruel, inhuman or degrading treatment or punishment, including rape and sexual abuse, unlawful or arbitrary deprivation of liberty, unjustifiable detention and miscarriage of justice. Necessary legal representation to bring an action within an appropriate court or tribunal, as well as interpretation into the native language of the child, if necessary, should be available.

49. Child witnesses need assistance in the judicial and administrative processes. States should review, evaluate and improve, as necessary, the situation for children as witnesses of crime in their evidential and procedural law to ensure that their rights are fully protected. In accordance with the different law traditions, practices and legal framework, direct contact should be avoided between the child victim and the offender during the process of investigation and prosecution as well as during trial hearings as much as possible. The identification of the child victim in the media should be prohibited, where necessary to protect the privacy of the child. Where prohibition is contrary to the fundamental legal principles of Member States, such identification should be discouraged.

50. States should consider, if necessary, amendments of their penal procedural codes to allow for, *inter alia*, videotaping of the child's testimony and its presentation in court as official pieces of evidence. In particular, police, prosecutors, judges and magistrates should apply more child-friendly practices, for example, in police operations and interviews of child witnesses.

51. The responsiveness of judicial and administrative processes to the needs of child victims and witnesses should be facilitated by:

(a) Informing child victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved;

(b) Encouraging the development of child witness preparation schemes to familiarize children with the criminal justice process prior to giving evidence. Appropriate assistance should be provided to child victims and witnesses throughout the legal process;

(c) Allowing the views and concerns of child victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and in accordance with the relevant national criminal justice system;

(d) Taking measures to minimize delays in the criminal justice process, protecting the privacy of child victims and witnesses and, when necessary, ensuring their safety from intimidation and retaliation.

52. Children displaced illegally or wrongfully retained across borders are as a general principle to be returned to the country of origin. Due attention should be paid to their safety, and they should be treated humanely and receive necessary assistance, pending their return. They should be returned promptly to ensure compliance with the Convention on the Rights of the Child. Where the Hague Convention on the Civil Aspects of International Child Abduction of 1980[103] or the Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 1993, approved by the Hague Conference on Private International Law, the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of the Child are applicable, the provisions of these conventions with regard to the return of the child should be promptly applied. Upon the return of the child, the country of origin should treat the children with respect, in accordance with international principles of human rights, and offer adequate family-based rehabilitation measures.

53. The United Nations Crime Prevention and Criminal Justice Programme, including the institutes comprising the Programme network, the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, UNICEF, UNDP, the Committee on the Rights of the Child, UNESCO, the World Bank and interested non-governmental organizations should assist Member States, on their request, within the overall appropriations of the United Nations budgets or from extrabudgetary resources, in developing multidisciplinary training, education and information activities for law enforcement and other criminal justice personnel, including police officers, prosecutors, judges and magistrates.

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[103] United Nations, *Treaty Series*, vol. 1343, No. 22514.

DRAFT RESOLUTION V

Victims of crime and abuse of power[*]

The Economic and Social Council,

Bearing in mind General Assembly resolution 40/34 of 29 November 1985, in which the Assembly adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,

Considering that the adoption of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power is an important landmark in international efforts to improve the treatment of victims,

Recalling that the General Assembly, in its resolution 40/34, called upon Member States to take the necessary steps to give effect to the provisions contained in the Declaration and urged United Nations entities, other intergovernmental organizations and non-governmental organizations to cooperate in the implementation of the provisions,

Mindful of the serious consequences of various forms of crimes, including those committed in cases of armed conflict or military occupation, for the victims,

Bearing in mind all relevant Security Council resolutions, particularly Security Council resolutions 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 827 (1993) of 25 May 1993 and 955 (1994) of 8 November 1994,

Taking into account its resolution 1995/27, section IV, paragraph 32, of 24 July 1995 and its resolution 1996/14 of 23 July 1996, in which it noted the usefulness of the manuals published and disseminated by the Secretariat under the United Nations Crime Prevention and Criminal Justice Programme,

Taking also into account the recommendations of the Expert Group Meeting on Victims of Crime and Abuse of Power in the International Setting, held at Vienna from 18 to 22 December 1995,[104]

1. *Takes note* of the progress made in the work on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, as reflected in the note by the Secretary-General;[105]

2. *Welcomes* the establishment of a victim and witness unit as reported in the 1995 yearbook of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991;

3. *Recommends* that, during armed conflicts, the rights of victims as contained in relevant international law, in particular in international humanitarian law, should be rigorously enforced, that the universal adherence to the corresponding treaties and protocols be promoted and that proper consideration be

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[*] For the discussion, see chapter VII.

[104] E/CN.15/1996/16/Add.5.

[105] E/CN.15/1997/16 and Add.1.

given to those issues by the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and by the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994;

4. *Welcomes* the positive developments related to the work of the Preparatory Committee on the Establishment of an International Criminal Court and recommends that appropriate attention should be given to the principles contained in the Declaration in its statute and rules of procedure;

5. *Welcomes* the fact that the Special Rapporteur on extrajudiciary, summary or arbitrary executions has relied on the Declaration in accomplishing his task;

6. *Urges* Governments to make effective use of the provisions contained in the Declaration and, to that end, to provide for effective legislation and other mechanisms for their effective use and application, including access to justice and fair treatment, reparation, restitution and compensation, as well as physical, medical and social assistance;

7. *Expresses its appreciation* to the Governments of the Netherlands and the United States of America for having acted as host to two expert group meetings on victims of crime and abuse of power in the international setting, one organized by the United States Department of Justice at Tulsa, Oklahoma, from 10 to 12 August 1996 and the other organized by the Ministry of Justice of the Netherlands at The Hague from 5 to 7 March 1997;

8. *Takes note* of the results of those two expert group meetings which proposed the elaboration of a manual as a strategic guide for policy makers and of a handbook as a resource tool for practitioners and other relevant parties;

9. *Welcomes* the invitation of the Government of the United States of America to act as host to a fourth expert group meeting, in 1997, in order to complete the work on the proposed handbook;

10. *Requests* the Secretary-General to seek the views of Member States on the proposed manual and proposed handbook and, drawing on the observations received, to finalize their texts for submission to the Commission on Crime Prevention and Criminal Justice at its seventh session;

11. *Invites* Governments to provide the Secretary-General with information on promising practices and legislation concerning victim-related issues with a view to establishing a database and a clearing-house for the provision of a continuing service for governmental agencies and non-governmental organizations, as proposed by the above-mentioned expert group meetings;

12. *Also invites* Governments to make proposals regarding the elaboration of a plan of action with emphasis on the activities of the United Nations such as technical cooperation to promote the effective use and application of the Declaration, as well as the use of the proposed manual and handbook, including new modalities for funding involving also the private sector and non-government organizations, such as the establishment of a foundation;

13. *Requests* relevant United Nations bodies, programmes and specialized agencies, the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental and non-governmental organizations and other entities to provide their substantive and technical contributions to such proposals, drawing also on work already done in that field, with a view to ensuring the integration and coordination of activities among the various parties involved;

14. *Requests* the Secretary-General to consult with the above-mentioned entities, as well as funding agencies and potential donor countries, on the desirability of establishing mechanisms to facilitate the coordination of technical cooperation initiatives to prevent victimization and assist victims of crime and abuse of power;

15. *Reiterates* the importance of technical cooperation in providing assistance to those Governments requesting it, as noted in the report of the Secretary-General on the use and application of the Declaration,[106] particularly in the form of advisory services, training and assistance in the review or promulgation of national legislation, and requests the Secretary-General to continue, drawing on extrabudgetary resources, providing such assistance in close collaboration with the Programme network;

16. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice on the implementation of the present resolution.

DRAFT RESOLUTION VI

United Nations standards and norms in crime prevention and criminal justice[*]

The Economic and Social Council,

Bearing in mind General Assembly resolution 46/152 of 18 December 1991, on the creation of an effective United Nations Crime Prevention and Criminal Justice Programme,

Reaffirming the importance of United Nations standards, norms and guidelines in crime prevention and criminal justice,

Recalling its resolution 1993/34 of 27 July 1993, in section III of which it requested the Secretary-General to commence without delay a process of information-gathering to be undertaken by means of surveys,

Recalling also its resolution 1996/16 of 23 July 1996, in which it requested the Secretary-General to continue to promote the use and application of United Nations standards and norms in crime prevention and criminal justice,

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[*] For the discussion, see chapter VII.

[106] E/CN.15/1996/16/Add.3.

1. *Invites* Governments to promote and disseminate the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*[107] in the languages of their countries;

2. *Recommends* that the relevant national authorities should promote the use and application of United Nations standards and norms in crime prevention and criminal justice;

3. *Invites* Governments that have not yet replied to the questionnaires on the four standards in crime prevention and criminal justice referred to in Economic and Social Council resolution 1996/16, namely the Standard Minimum Rules for the Treatment of Prisoners,[108] the Code of Conduct for Law Enforcement Officials[109] together with the Basic Principles for the Use of Force and Firearms by Law Enforcement Officials,[110] the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,[111] and the Basic Principles on the Independence of the Judiciary,[112] to submit their replies in order to enable the Secretariat to summarize that information and to disseminate it via the World Wide Web database facility of the United Nations Crime and Justice Information Network;

4. *Requests* the Secretariat to prepare the relevant survey instruments on the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules),[113] the Guidelines on the Role of Prosecutors[114] and the Basic Principles on the Role of Lawyers[115] for submission to the Commission on Crime Prevention and Criminal Justice at its seventh session;

5. *Calls upon* Member States to consider making available funds for technical cooperation activities that are aimed at promoting the further use and application of United Nations standards and norms in crime prevention and criminal justice;

6. *Recommends* that the cooperation and coordination between the Crime Prevention and Criminal Justice Division and the office of the United Nations High Commissioner for Human Rights/Centre for Human

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[107] United Nations publication, Sales No. E.92.IV.1 and corrigendum.

[108] *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August - 3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I, sect. A.

[109] General Assembly resolution 34/169, annex, of 17 December 1979.

[110] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

[111] General Assembly resolution 40/34, annex.

[112] *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex.

[113] General Assembly resolution 45/110, annex, of 14 December 1990.

[114] *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.26, annex.

[115] Ibid., chap. I, sect. B.3, annex.

Rights of the Secretariat should be further improved, not only to avoid overlapping in the implementation of their programmes, but also to reinforce existing collaboration;

7. *Requests* the Secretary-General to convene a meeting of government experts in crime prevention and criminal justice, attending in their personal capacity, funded by extrabudgetary resources, to review the draft minimum rules for the administration of criminal justice, paying special attention to the following, without prejudice to the future work of the Commission on Crime Prevention and Criminal Justice:

(a) Whether those draft minimum rules duplicate or contradict existing conventions or standards and norms in crime prevention and criminal justice;

(b) The necessity of elaborating such an instrument;

(c) The diversity of legal systems and practices in each Member State.

DRAFT RESOLUTION VII

Elements of responsible crime prevention: standards and norms[*]

The Economic and Social Council,

Recalling General Assembly resolution 46/152 of 18 December 1991, on the creation of an effective United Nations crime prevention and criminal justice programme,

Recalling its resolution 1992/22 of 30 July 1992, on the implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice, in section VI of which it determined that crime prevention in urban areas and juvenile and violent criminality would be one of the priority themes that should guide the Crime Prevention and Criminal Justice Commission in the development of a detailed programme,

Recalling also its resolution 1995/9 of 24 July 1995, on guidelines for the prevention of urban crime,

Taking into account that a growing and undermining criminality highlights the inadequacy of conventional criminal policies and the need to urgently devise preventive approaches,

Considering that the challenge and magnitude of modern crime, including organized crime, combined with the insufficient resources of the criminal justice system, for example the overpopulation of prisons and overburdened criminal justice systems, reinforce the need for non-repressive crime prevention,

Considering that an international effort is necessary to develop an effective strategy on responsible crime prevention,

1. *Takes note* of the preliminary draft of elements of responsible crime prevention: standards and norms annexed to the present resolution;

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[*] For the discussion, see chapter VII.

2. *Requests* the Secretary-General to seek comments from Member States, relevant intergovernmental and non-governmental organizations, as well as the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, on the annex to this resolution, including the advisability of elaborating such an instrument;

3. *Also requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice on the comments received at a future session of the Commission on Crime Prevention and Criminal Justice;

4. *Further requests* the Secretary-General to organize, drawing upon extrabudgetary funds, an ad hoc expert group meeting to examine the comments and to elaborate proposals for further action and to report thereon to the Commission on Crime Prevention and Criminal Justice;

5. *Urges* Member States and relevant intergovernmental and non-governmental organizations, as well as the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, to extend to the Secretary-General their full support in implementing this resolution.

Annex

Elements of responsible crime prevention: standards and norms

I. THE CONCEPT OF CRIME PREVENTION

1. The prevention of crime through non-punitive measures is to be considered an important complement to the administration of criminal law. It constitutes a legitimate response by society to threats to the safety of citizens posed by criminal acts.

2. The concept of crime prevention should not be limited to conventional forms of crime, including domestic violence, but should encompass new forms of crime, such as organized crime, terrorism, illegal trafficking in migrants, computer and cybercrimes, environmental crime, corruption and illegal commerce related to the acquisition and development of weapons of mass destruction.

3. The concept of crime prevention should take into account the growing internationalization of criminal activities and the relationship between the global economy, advanced technologies and national phenomena of crime, with special consideration for developing countries.

II. RESPONSIBLE CRIME PREVENTION

4. Under all circumstances measures of crime prevention should be carried out in strict conformity with the relevant provisions of international law and international standards of human rights.

5. Crime prevention should respect principles such as the rule of law, the protection of individual rights and freedoms, the principle of equality before the law and due process.

6. Whenever preventive measures are adopted which do not infringe upon the principles set out in paragraphs 4 and 5 above but affect human rights, they have to be implemented in strict accordance with the principle of the rule of law and of proportionality.

7. If the impact of a preventive measure on human rights is comparable to a penal measure, the same legal guarantees, including controls by the courts or by an ombudsman, should be provided for.

8. Measures which touch upon the rights of those who are considered to be at risk of becoming offenders should be handled in strict accordance with the principles set out in paragraphs 4 and 5 above [with great restraint]. Prediction of future criminality at the individual level requires a high degree of caution and stigmatization should be avoided. However, this should not obviate the development of secondary prevention programmes for persons with known risk factors.

9. In the planning and implementation of preventive measures, affirmative action may play a role but discrimination should always be avoided.

10. If the police are a partner in the implementation of prevention programmes, their participation should not be hidden and any confusion of roles should be avoided. Data collected in relation to prevention programmes should be used for criminal investigation of only serious crime.

11. Law should define the limits within which the private security sector may act. The private security sector should, in accordance with human rights standards, not exercise any function which, by its nature, is incompatible with the rule of law and the principle that the use of force is reserved for the State.

12. Codes of conduct for public officials and other persons involved are useful supplements to legal regulations in order to reduce the risks connected with preventive measures.

13. Preventive measures that do not in any way affect the rights of individuals need little legal regulation. Over-regulation in this respect would unduly limit the development of these types of measures.

III. THE PROMOTION OF RESPONSIBLE CRIME PREVENTION

14. Governments should take appropriate steps to promote and to regulate crime prevention through the establishment of special councils or other agencies, the provisions for funding, and the dissemination of information. Crime prevention programmes should be developed and implemented in collaboration with the police, municipalities, the private sector and other interested parties in a manner that clearly sets objectives and defines roles.

15. Crime prevention strategies at the national, local and community levels should also address the root causes of crime through social, economic, public health and educational policies. Where appropriate, crime prevention programmes should be linked to comprehensive programmes addressing social marginalization and exclusion.

16. Community-based programmes of crime prevention that include the active participation of citizens, the business sector, the police and other relevant parties should be encouraged and developed. These programmes should avoid activities with the potential to affect the rights of others.

17. Crime prevention targeting groups at risk of becoming offenders, especially youth, should be promoted and should include educational opportunities, employment, housing and leisure facilities. These measures should avoid stigmatization of the target groups.

18. Where necessary, educational support, *inter alia* instructing parental skills, and special medical care, should be offered as early as possible to families with children at risk. Steps should be taken to ensure that these provisions do not stigmatize the clients or infringe upon their rights.

19. Situational crime prevention programmes should be developed, to include target hardening, environmental design and surveillance. These programmes should not unduly reduce the quality of the built environment or limit free access to the public domain or public facilities.

20. Victim-oriented crime prevention consisting of, *inter alia*, the provision of information and advice to potential victims, should be promoted. Steps should be taken to avoid the undue rise of fear of crime or the stigmatization of the target groups.

21. Victims of crime should be offered protection, where necessary, and should be informed of possible ways to reduce the risks of future victimization, with due consideration for the rights of offenders. Due regard should be given to how to avoid the tendency to blame the victim, as well as reparation by the offender.

22. To promote prevention, provisions should be made available or strengthened for out-of-court mediation in appropriate penal matters, if this option is foreseen in national legislation. Procedures should comply with the principles of due process.

23. Research on crime prevention, including evaluation studies, should be promoted, taking into account the interests and rights of all parties involved. The international exchange of information on best practices, in terms of both effectiveness and respect for human rights, should be facilitated.

DRAFT RESOLUTION VIII

Implementation of the United Nations Declaration on Crime and Public Security[*]

The Economic and Social Council,

Recalling General Assembly resolution 51/60 of 12 December 1996, in which the Assembly, convinced that the adoption of a declaration on crime and public security would contribute to the enhancement of the struggle against serious transnational crime, approved the United Nations Declaration on Crime and Public Security,

Noting that the General Assembly, in its resolution 51/60, urged Member States to make every effort to ensure that the Declaration became generally known and was observed and implemented in full in accordance with their respective national legislation,

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[*] For the discussion, see chapter VIII.

Noting also that the General Assembly, in its resolution 51/60, invited the Secretary-General to inform all States and the relevant specialized agencies and organizations of the adoption of the Declaration,

1. *Welcomes* the report of the Secretary-General on technical cooperation and coordination of activities[116] setting forth the information provided to date by Member States on their efforts to observe and implement in full General Assembly resolution 51/60 and the United Nations Declaration on Crime and Public Security in accordance with their national legislation;

2. *Requests* the Secretary-General, utilizing a questionnaire or other means to ensure standardized responses, to seek from Member States, as well as any interested intergovernmental organizations or United Nations institutes, information related to the implementation of the Declaration, including in particular in the case of Member States the following:

(a) A summary of existing legislation and pending legislative proposals to combat serious transnational crime, including organized crime, illicit drug and arms trafficking, smuggling of other illicit articles, organized trafficking in persons, terrorist crimes and the laundering of proceeds from serious crimes;

(b) A summary of bilateral, regional, multilateral and global extradition, mutual legal assistance and other types of law enforcement cooperation arrangements;

(c) A summary of involvement or participation in law enforcement training and education activities at the international level;

(d) A status report on adherence to the principal existing international treaties relating to various aspects of the problem of international terrorism and to the international drug control conventions;

(e) A summary of existing or proposed victim assistance programmes or systems;

(f) A summary of existing or proposed legislation to combat the transnational flow of the proceeds of serious transnational crime, including measures to require adequate record-keeping and reporting of suspicious transactions by financial and related institutions, to permit the seizure and forfeiture of the proceeds of crime, to limit the application of any bank secrecy laws with respect to criminal operations and to obtain the cooperation of financial institutions in detecting any operations that may be used for money-laundering;

(g) A summary of measures undertaken to combat and prohibit corruption and bribery;

3. *Urges* all Member States to respond fully to the request by the Secretary-General for information on their efforts to implement the Declaration, either in their initial responses if they have not yet responded or, if necessary, in an amended version of any previous response;

4. *Recognizes* that the Crime Prevention and Criminal Justice Division of the Secretariat should continue to provide technical assistance to Member States in their efforts to implement the Declaration, drawing on extrabudgetary resources;

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[116] E/CN.15/1997/17.

5. *Requests* the Secretary-General to compile the responses received for submission as a report to the Commission on Crime Prevention and Criminal Justice at its eighth session, if possible within existing resources;

6. *Decides* that the Declaration should be published in the *Compendium of Standards and Norms in Crime Prevention and Criminal Justice*[117] when the *Compendium* is next printed in any of the official languages of the United Nations;

7. *Invites* Member States to give serious consideration, in their efforts to implement the Declaration, to the means and methods for combating organized transnational crime set forth in the forty recommendations endorsed at the summit held at Lyon, France, in June 1996;

8. *Decides* that the Commission on Crime Prevention and Criminal Justice, at its eighth session, should review the report of the Secretary-General and should continue to consider the implementation of the Declaration.

DRAFT RESOLUTION IX

Technical cooperation and international advisory services in crime prevention and criminal justice[*]

The Economic and Social Council,

Recalling General Assembly resolution 51/63 of 12 December 1996, on strengthening the United Nations Crime Prevention and Criminal Justice Programme, particularly its technical cooperation capacity,

Recalling also its resolution 1995/15 of 24 July 1995 and resolution 5/2 of 31 May 1996 of the Commission on Crime Prevention and Criminal Justice, on technical cooperation and interregional advisory services in crime prevention and criminal justice,

Stressing the direct relevance of crime prevention and criminal justice to sustained development, stability, improved quality of life, democracy and human rights, which is increasingly recognized by other United Nations entities, specialized agencies and international organizations,

Aware of the continued increase of requests for technical assistance forwarded to the Crime Prevention and Criminal Justice Division of the Secretariat by least developed countries, developing countries, countries with economies in transition and countries emerging from conflict,

1. *Commends* the efforts of the Crime Prevention and Criminal Justice Division of the Secretariat, in cooperation with the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network and others, in responding to the increasing requests for assistance, as reported by the

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[*] For the discussion, see chapter VIII.

[117] United Nations publication, Sales No. E.92.IV.1 and corrigendum.

Secretary-General,[118] and expresses appreciation for the operationalization of the Programme, including the elaboration of a number of important project proposals that urgently require new funding;

2. *Welcomes* the work done by the informal consultative group on resource mobilization in accordance with resolution 5/3 of 31 May 1996 of the Commission on Crime Prevention and Criminal Justice;

3. *Commends* the increased cooperation between the Crime Prevention and Criminal Justice Division, the United Nations Crime Prevention and Criminal Justice Programme network and other entities of the United Nations, in particular the United Nations Development Programme, the Department for Development Support and Management Services of the Secretariat and the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights of the Secretariat, and calls upon those entities, together with the World Bank and other international, regional and national funding agencies, to support technical cooperation activities devoted to crime prevention and criminal justice as a means of guaranteeing effective and sustainable development, utilizing the expertise of the United Nations Crime Prevention and Criminal Justice Programme;

4. *Welcomes* the cooperation between the Crime Prevention and Criminal Justice Division and the United Nations International Drug Control Programme, particularly in the area of action against money-laundering, and calls upon the two programmes to continue undertaking joint activities, particularly the elaboration and execution of technical cooperation projects;

5. *Expresses its concern* at the lack of adequate resources which may impede progress in the further operationalization of the United Nations Crime Prevention and Criminal Justice Programme and hamper the implementation of those projects which have so far been elaborated in response to urgent requests from countries in need;

6. *Expresses its appreciation* to those Member States that contribute to the activities of the United Nations Crime Prevention and Criminal Justice Programme by providing funding, the services of associate experts, consultants and experts for training purposes, advisory missions and the implementation of technical assistance projects, by developing training manuals and other material, by offering fellowship opportunities and by hosting action-oriented workshops and expert group meetings;

7. *Calls upon* potential donors and relevant funding agencies to make significant and regular financial and/or other contributions for the formulation, coordination and implementation of technical assistance projects elaborated within the framework of the United Nations Crime Prevention and Criminal Justice Programme and to strengthen the mandated role of the Programme as facilitator of bilateral assistance;

8. *Invites* developing countries and countries with economies in transition to include in their requests for assistance from the United Nations Development Programme, in particular as part of its country programme framework, projects and/or elements on crime prevention and criminal justice, with a view to upgrading national institutional capacity and professional expertise in that field;

9. *Requests* the Secretary-General, bearing in mind the plan for strategic management of the Commission on Crime Prevention and Criminal Justice, in accordance with Commission resolutions 1/1 of 29 April 1992 and 4/3 of 9 June 1995, to further enhance the resources required for the operational activities of the United Nations Crime Prevention and Criminal Justice Programme, including travel funds for the mobilization of resources and special efforts for fund-raising;

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[118] E/CN.15/1997/17.

10. *Also requests* the Secretary-General to include in his programme budget proposals for the biennium 1998-1999, under the section of technical cooperation, adequate funds for maintaining two posts of interregional advisers in crime prevention and criminal justice and for further strengthening the interregional advisory services to support technical assistance activities, including short-term advisory services, needs assessments, feasibility studies, field projects, training and fellowships.

DRAFT RESOLUTION X

International cooperation for the improvement of prison conditions[*]

The Economic and Social Council,

Gravely alarmed by the serious problem confronting many Member States as a result of prison overcrowding,

Convinced that conditions in overcrowded prisons may affect the human rights of prisoners,

Bearing in mind the Standard Minimum Rules for the Treatment of Prisoners,[119] adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977,

Recalling General Assembly resolution 45/111 of 14 December 1990, adopted on the recommendation of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in which the Assembly affirmed the Basic Principles for the Treatment of Prisoners, annexed to that resolution,

Recognizing that prison overcrowding requires the implementation of effective policies directed towards the rehabilitation of prisoners and their social reintegration, as well as the application of the Standard Minimum Rules for the Treatment of Offenders and the Basic Principles on the Treatment of Prisoners,

Mindful of the fact that the physical and social conditions associated with prison overcrowding may result in outbreaks of violence in prisons, a development that could pose a grave threat to law and order,

Recalling the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules),[120]

Recalling the resolutions on the conditions of prisoners adopted by United Nations congresses on the prevention of crime and the treatment of offenders, in particular resolution 16, on reduction of the prison population, alternatives to imprisonment and social integration of offenders, and resolution 17, on the human rights of prisoners, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders,[121]

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[*] For the discussion, see chapter VIII.

[119] *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. E.56.IV.4), annex I.A.

[120] General Assembly resolution 45/110, annex, of 14 December 1990.

Noting the resolution adopted at the seminar entitled "Criminal justice: the challenge of prison overcrowding", organized by the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, with the support of the European Commission, and held at San José, Costa Rica, from 3 to 7 February 1997, in which it was recommended, *inter alia*, that the number of prisoners should not exceed the number that could be held in decent conditions,

Noting the Kampala Declaration on Prison Conditions in Africa, annexed to the present resolution,

Also noting the nomination of a special rapporteur on prisons in Africa by the African Commission on Human and Peoples' Rights, in accordance with recommendations contained in the Kampala Declaration,

Mindful that many Member States lack the necessary resources to resolve the problem of prison overcrowding,

1. *Requests* the Secretary-General to assist, upon request, and within existing resources or, where possible, funded by extrabudgetary resources if available, countries in the improvement of their prison conditions in the form of advisory services, needs assessment, capacity building and training;

2. *Invites* other entities of the United Nations system, including the United Nations Development Programme and the United Nations Crime Prevention and Criminal Justice Programme network, as well as intergovernmental organizations, to assist the Secretary-General in implementing the request contained in paragraph 1 above;

3. *Urges* Member States, if they have not yet done so, to introduce appropriate alternatives to imprisonment in their criminal justice systems;[122]

4. *Recommends* to Member States, if they have not yet done so, to adopt appropriate effective measures to reduce pre-trial detention;

5. *Invites* international and regional financial institutions such as the World Bank and the International Monetary Fund to incorporate in their technical assistance programmes measures to reduce prison overcrowding, including the construction of adequate infrastructure and the development of alternatives to imprisonment in their criminal justice systems;

6. *Requests* the Commission on Crime Prevention and Criminal Justice to discuss the issue of prison overcrowding in the context of technical cooperation at its eighth session with a view to achieving greater international cooperation in that area;

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[121] *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.

[122] See the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (General Assembly resolution 45/110, annex) and *Human Rights and Pre-trial Detention: A Handbook of International Standards relating to Pre-trial Detention* (United Nations publication, Sales No. E.94.XIV.6).

7. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice at its eighth session on the implementation of the present resolution.

Annex

KAMPALA DECLARATION ON PRISON CONDITIONS IN AFRICA

PRISON CONDITIONS:

Considering that in many countries in Africa the level of overcrowding in prisons is inhuman, that there is a lack of hygiene, insufficient or poor food, difficult access to medical care, a lack of physical activities or education, as well as an inability to maintain family ties,

Bearing in mind that any person who is denied freedom has a right to human dignity,

Bearing in mind that the universal norms on human rights place an absolute prohibition on torture of any description,

Bearing in mind that some groups of prisoners, including juveniles, women, the old, the mentally and physically ill, are especially vulnerable and require particular attention,

Bearing in mind that juveniles must be separated from adult prisoners and that they must be treated in a manner appropriate to their age,

Remembering the importance of proper treatment for female detainees and the need to recognize their special needs,

The participants at the International Seminar on Prison Conditions in Africa,[123] *held in Kampala from 19 to 21 September 1996, recommend*:

1. That the human rights of prisoners should be safeguarded at all times and that non-governmental agencies should have a special role in this respect,

2. That prisoners should retain all rights which are not expressly taken away by the fact of their detention,

3. That prisoners should have living conditions which are compatible with human dignity,

4. That conditions in which prisoners are held and the prison regulations should not aggravate the suffering already caused by the loss of liberty,

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[123] The seminar was co-organized by Prison Reform International and the African Commission on Human and Peoples' Rights, in partnership with the Foundation for Human Rights Initiative, the Uganda Government through the Prisons Department, and with the participation of the International Committee of the Red Cross and International Prisons Watch.

5. That the detrimental effects of imprisonment should be minimised so that prisoners do not lose their self-respect and sense of personal responsibility,

6. That prisoners should be given the opportunity to maintain and develop links with their families and the outside world,

7. That prisoners should be given access to education and skills training in order to make it easier for them to reintegrate into society after their release,

8. That special attention should be paid to vulnerable prisoners and that non-governmental organisations should be supported in their work with these prisoners,

9. That all the norms of the United Nations and the African Charter on Human and Peoples' Rights on the treatment of prisoners should be incorporated into national legislation in order to protect the human rights of prisoners,

10. That the Organization of African Unity and its member states should take steps to ensure that prisoners are detained in the minimum conditions of security necessary for public safety.

REMAND PRISONERS:

Considering that in most prisons in Africa a great proportion of prisoners are awaiting trial, sometimes for several years,

Considering that for this reason the procedures and policies adopted by the police, the prosecuting authorities and the judiciary can significantly influence prison overcrowding,

The participants at the International Seminar on Prison Conditions in Africa, held in Kampala from 19 to 21 September 1996, recommend:

1. That the police, the prosecuting authorities and the judiciary should be aware of the problems caused by prison overcrowding and should join the prison administration in seeking solutions to reduce this,

2. That judicial investigations and proceedings should ensure that prisoners are kept in remand detention for the shortest possible period, avoiding, for example, continual remands in custody by the court,

3. That there should be a system for regular review of the time detainees spend on remand.

PRISON STAFF:

Considering that any improvement in conditions for prisoners will be dependent on staff having pride in their work and a proper level of competence,

Bearing in mind that this will only happen if staff are properly trained, *The participants at the International Seminar on Prison Conditions in Africa, held in Kampala from 19 to 21 September 1996, recommend:*

1. That there should be a proper career structure for prison staff,

2. That all prison personnel should be linked to one government ministry and that there should be a clear line of command between central prison administration and the staff in prisons,

3. That the State should provide sufficient material and financial resources for staff to carry out their work properly,

4. That in each country there should be an appropriate training programme for prison staff to which UNAFRI should be invited to contribute,

5. That there should be a national or subregional institution to deliver this training programme,

6. That the penitentiary administration should be directly involved in the recruitment of prison staff.

ALTERNATIVE SENTENCING:

Noting that in an attempt to reduce prison overcrowding, some countries have been trying to find a solution through amnesties, pardons or by building new prisons,

Considering that overcrowding causes a variety of problems including difficulties for overworked staff,

Taking into account the limited effectiveness of imprisonment, especially for those serving short sentences, and the cost of imprisonment to the whole of society,

Considering the growing interest in African countries in measures which replace custodial sentences, especially in the light of human rights principles,

Considering that community service and other non-custodial measures are innovative alternatives to imprisonment and that there are promising developments in Africa to this regard,

Considering that compensation for damage done is an important element of non-custodial sentences,

Considering that legislation can be introduced to ensure that community service and other non-custodial measures will be imposed as an alternative to imprisonment,

The participants at the International Seminar on Prison Conditions in Africa, held in Kampala from 19 to 21 September 1996, recommend:

1. That petty offenses should be dealt with according to customary practice, provided this meets human rights requirements and that those involved so agree,

2. That whenever possible petty offenses should be dealt with by mediation and should be resolved between the parties involved without recourse to the criminal justice system,

3. That the principle of civil reparation or financial recompense should be applied, taking into account the financial capability of the offender or of his or her parents,

4. That the work done by the offender should if possible recompense the victim,

5. That the community service and other non-custodial measures should if possible be preferred to imprisonment,

6. That there should be a study of feasibility of adapting successful African models of non-custodial measures and applying them in countries where they are not yet being used,

7. That the public should be educated about the objectives of these alternatives and how they work.

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS:

Considering that the African Commission on Human and Peoples' Rights has the mandate to ensure the promotion and the protection of human and peoples' rights in Africa,

Considering that the Commission has shown on many occasions its special concern on the subject of poor prison conditions in Africa and that it has adopted special resolutions and decisions on this question previously,

The participants at the International Seminar on Prison Conditions in Africa, held in Kampala from 19 to 21 November 1996, recommend that the African Commission on Human and Peoples' Rights:

1. Should continue to attach priority to the improvement of prison conditions throughout Africa,

2. Should nominate a Special Rapporteur on Prisons in Africa as soon as possible,

3. Should make the Member States aware of the recommendations contained in this Declaration and publicize United Nations and African norms and standards on imprisonment,

4. Should cooperate with non-governmental organizations and other qualified institutions in order to ensure that the recommendations of this Declaration are implemented in all the Member States.

C. Draft decision for adoption by the Economic and Social Council

3. The Commission also recommends to the Economic and Social Council the adoption of the following draft decision:

DRAFT DECISION

Report of the Commission on Crime Prevention and Criminal Justice on its sixth session, provisional agenda and documentation for its seventh session and organization of work and themes for its future sessions*

The Economic and Social Council,

(a) *Takes note* of the report of the Commission on Crime Prevention and Criminal Justice on its sixth session;

(b) *Decides* that each session of the Commission should have one prominent theme and that the themes for the seventh, eighth and ninth sessions of the Commission should be as follows:

(i) For the seventh session, in 1998: "Organized transnational crime";

(ii) For the eighth session, in 1999: "Crime prevention";

(iii) For the ninth session, in the year 2000: "Results of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders";

(c) Decides that the Commission on Crime Prevention and Criminal Justice from its seventh session onwards, in addition to plenary meetings, should be provided with full interpretation services for a total of twelve meetings for informal consultations on draft proposals and for meetings of open-ended working groups, with the precise allocation of time for the different types of meetings to be determined by the Commission at its seventh session under its agenda item entitled "Adoption of the agenda and organization of work", on the understanding that no more than two meetings will be held concurrently, in order to ensure maximum participation of delegations;

(d) Approves the provisional agenda and documentation for the seventh session of the Commission set out below.

PROVISIONAL AGENDA AND DOCUMENTATION FOR THE SEVENTH SESSION OF THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

1. Election of officers.

(Legislative authority: rule 15 of the rules of procedure of the functional commissions of the Economic and Social Council and Commission decision 1/101)

2. Adoption of the agenda and organization of work.

(Legislative authority: Economic and Social Council resolution 1992/1; and rules 5 and 7 of the rules of procedure of the functional commissions of the Economic and Social Council)

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* For the discussion, see chapter X.

3. Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

Documentation

Report of the Secretary-General on progress made in the preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

(Legislative authority: Commission resolution E/CN.15/1997/L.2/Rev.1, paras. 4, 6 and 17)

Discussion guide for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, prepared by the Secretariat

(Legislative authority: Commission resolution E/CN.15/1997/L.2/Rev.1, para. 7)

4. Promotion and maintenance of the rule of law: action against corruption and bribery.

Documentation

Report of the Secretary-General on action against corruption and bribery

(Legislative authority: Commission resolution E/CN.15/1997/L.22, paras. 4 and 7)

5. Criminal justice reform and strengthening of legal institutions: measures to regulate firearms.

Documentation

Progress report of the Secretary-General on measures to regulate firearms

(Legislative authority: Economic and Social Council resolution 1995/27, section IV, para. 12; and Commission resolution E/CN.15/1997/L.19/Rev.1, paras. 7, 16 and 17)

6. International cooperation in combating transnational crime.

(a) Implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime: question of the elaboration of an international convention against organized transnational crime, and other possible international instruments;

Documentation

Report of the Secretariat on the work of the inter-sessional open-ended intergovernmental group of experts on the elaboration of an international convention against organized transnational crime

(Legislative authority: Commission resolution E/CN.15/1997/L.20/Rev.2, paras.14 and 15)

Report of the Secretary-General to the General Assembly on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime: question of the elaboration of an international convention against organized transnational crime

(Legislative authority: Commission resolution E/CN.15/1997/L.20/Rev.2, para. 17)

(b) Mutual assistance and international cooperation in criminal matters.

Documentation

Report of the Secretary-General on mutual assistance and international cooperation in criminal matters

(Legislative authority: Commission resolution E/CN.15/1997/L.16/Rev.1, paras. 1 and 3)

7. Use and application of United Nations standards and norms in crime prevention and criminal justice.

Documentation

Report of the Secretary-General on the use and application of United Nations standards and norms in crime prevention and criminal justice

(Legislative authority: Commission resolution E/CN.15/1997/L.4/Rev.1, para. 10; and E/CN.15/L.8/Rev.1, paras. 10 and 16)

Survey instruments on selected United Nations standards and norms in crime prevention and criminal justice

(Legislative authority: Commission resolution E/CN.15/1997/L.9/Rev.2, para. 4)

(a) Administration of juvenile justice;

(b) Victims of crime and abuse of power.

Documentation

Manual on victims of crime and abuse of power for policy makers; and handbook on victims of crime and abuse of power for practitioners

(Legislative authority: Commission resolution E/CN.15/1997/L.8/Rev.1, para. 10)

8. Technical cooperation, including resource mobilization, and coordination of activities.

(a) Technical cooperation;

(b) Treatment of prisoners: prison overcrowding, *Documentation*

Report of the Secretary-General on technical cooperation

(Legislative authority: Economic and Social Council resolution 1992/22, section VII, para. 2; and Commission resolution E/CN.15/1997/L.11/Rev.1)

(c) Resource mobilization.

Documentation

Report of the Secretary-General on activities undertaken and results achieved by the informal consultative group on resource mobilization

(Legislative authority: Commission resolution E/CN.15/1997/L.3, sect. II, para. 8)

9. Strategic management and programme questions.

(a) Strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme;

Documentation

Report of the Secretary-General on strategic management

(Legislative authority: Commission resolution E/CN.15/1997/L.3, sect. I, paras. 9-11)

(b) Programme questions.

10. Provisional agenda for the eighth session of the Commission.

11. Adoption of the report of the Commission on its seventh session.

D. Matters brought to the attention of the Economic and Social Council

4. The attention of the Economic and Social Council is drawn to the following resolution adopted by the Commission:

Resolution 6/1. Strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme[*]

The Commission on Crime Prevention and Criminal Justice,

Mindful of the statement of principles and programme of action of the United Nations Crime Prevention and Criminal Justice Programme, annexed to General Assembly resolution 46/152 of 18 December 1991,

Recalling Economic and Social Council resolution 1992/22 of 30 July 1992,

Reaffirming its resolutions 1/1 of 30 April 1992, 4/3 of 9 June 1995 and 5/3 of 31 May 1996,

Welcoming the priority status accorded to the Programme in the medium-term plan for the period 1998-2001,

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PROGRAMME AND STRATEGIC MANAGEMENT QUESTIONS

1. *Takes note* of the report of the Secretary-General on strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme;[124]

2. *Also takes note* of the note by the Secretary-General on the proposed programme of work in crime prevention and criminal justice for the biennium 1998-1999,[125] decides to submit the comments reflected in the report on its sixth session[126] to the appropriate bodies and requests the Secretary-General to ensure the provision of sufficient resources from within the regular budget and extrabudgetary resources for the implementation of the programme activities;

3. *Calls upon* the Secretary-General, in accordance with his announcement of 17 March 1997, to redeploy savings in administration and conference services to the highest priority programmes, especially the United Nations Crime Prevention and Criminal Justice Programme, for support to operational activities;

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[*] For the discussion, see chapter IX.

[124] E/CN.15/1997/19.

[125] E/CN.15/1997/20.

[126] See *Official Records of the Economic and Social Council, 1997, Supplement No.* [10] (E/1997/30) [E/CN.15/1997/21], chap. IX.

4. *Takes note* of the report of the bureau of the Commission on Crime Prevention and Criminal Justice on its inter-sessional work and endorses the recommendations of the bureau with respect to the streamlining of the substantive agenda of the Commission and its organization of work,[127] in particular by:

(a) Reducing the number of resolutions by:

(i) exercising restraint on repetitive pronouncements of principles or arguments so that the focus is more on effective action required in accordance with the strategic management established under Commission resolution 4/3; and

(ii) limiting the number of requests for further reports and information from Member States, as well as from the Secretariat;

(b) Referring to the bureau draft resolutions containing requests for such reports and information, so that it can express its view on the need for such reports and information, taking into account the views submitted by the Secretariat on the availability of relevant data and other information within the United Nations system;

(c) Establishing a multi-year work plan, each year being devoted to a specific theme, in an effort to simplify the agenda of the Commission and to plan substantive discussions in advance;

(d) Scheduling the discussion of the agenda items of the Commission in accordance with the following criteria:

(i) reports on the use and application of standards and norms, which require the provision of information by Governments, should be submitted every two or three years, to permit input from as many Member States as possible;

(ii) reports on surveys and crime statistics, as well as reports based on continued collection of data and other information, should be submitted not more frequently than every two years;

(iii) reports on coordination with other entities should be submitted every two years, preferably at the end of every programme budget biennium;

(iv) full reports and studies requiring a large volume of work in terms of research, or because of the complexity of the subject-matter, should not be submitted to the session immediately following the one in which the mandate was given;

(v) consideration of, or reporting on, a substantive issue should be based on whether the issue has been significantly advanced in a given year through specific activities and developments;

5. *Requests* the bureau of the Commission on Crime Prevention and Criminal Justice to develop recommendations, for the consideration of the Commission at its seventh session, concerning the criteria that could be used by the Commission as a guide to determine which types of agenda items should be submitted to the session that immediately follows;

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[127] E/CN.15/1997/CRP.2.

6. *Reiterates* its request to Member States to submit to the bureau of the Commission on Crime Prevention and Criminal Justice their draft proposals, together with the information required in accordance with Commission resolution 4/3, annex, one month prior to the commencement of the relevant session of the Commission;

7. *Reaffirms* that, in implementing its resolution 1/1, the type of information set out in its resolution 4/3, annex, is useful in its consideration of draft resolutions;

8. *Requests* the bureau of the Commission on Crime Prevention and Criminal Justice to report on its inter-sessional work annually, including its experience with regard to the adherence of Member States to the procedural requirements for the submission of draft proposals;

9. *Expresses its appreciation* for the informal meetings of the bureau of the Commission on Crime Prevention and Criminal Justice with the bureau of the Commission on Narcotic Drugs, and encourages the former to continue its efforts to improve the coordination of work of the two commissions, taking into account particularly the preparatory work for the special session of the General Assembly to consider the fight against the illicit production, sale, demand, traffic and distribution of narcotic drugs and psychotropic substances and related activities;

10. *Reiterates* its decision to curtail and streamline its reporting requirements, and decides to do so on the basis of the proposals contained in the reports of the Secretary-General and of the bureau on its inter-sessional work, and in that regard, urges the Secretary-General to use his discretion in determining the necessity, form and length of such reporting, particularly in cases where reporting would be based on information provided by only a few Member States;

11. *Requests* the Secretary-General to measure the impact of programme activities on the basis of the proposals contained in his report and to report thereon to it on a biennial basis, starting with its eighth session;

12. *Requests* the Chairman of the Commission on Crime Prevention and Criminal Justice to convene an informal working group of its members in consultation with its bureau to undertake a review of the programme mandates and resources with a view to establishing a more realistic relationship between them, focusing on the expectations of Member States for the implementation of existing mandates, the requirements for meeting those expectations and the extent to which regular budget resources are to be used to support operational activities;

13. *Decides* that the working group should present a report on its findings for consideration by the Commission on Crime Prevention and Criminal Justice at its seventh session;

14. *Also decides* that, in the context of the review, the question of maximizing the existing resource potential of the Programme and of streamlining the agenda of the Commission on Crime Prevention and Criminal Justice should be addressed;

15. *Requests* the Secretary-General, in addition to forwarding all communications to permanent missions, to send copies of such communications also to the national focal points designated by Member States;

II

RESOURCE MOBILIZATION

1. *Takes note* of the report of the Chairman of the informal consultative group on resource mobilization;[128]

2. *Calls upon* Member States to review the projects contained in the compendium[*] submitted by the informal consultative group with a view to providing for their funding;

3. *Calls upon* Member States where possible to contribute a total of approximately 500,000 United States dollars on an annual basis to the United Nations Crime Prevention and Criminal Justice Fund to cover the cost of two professional staff members, consultants and other support required for developing and administering the technical cooperation component of the United Nations Crime Prevention and Criminal Justice Programme and to develop essential training tools;

4. *Requests* its Chairman and the Chairman of the informal consultative group to be available to support the resource mobilization activities of the Secretariat as appropriate;

5. *Requests* the Secretary-General to issue a consolidated appeal on crime prevention and criminal justice requirements to Governments at the appropriate level;

6. *Requests* the Director-General of the United Nations Office at Vienna to assume a strong role in the resource mobilization activities of the Programme, particularly in consultations at the highest political levels;

7. *Requests* the Crime Prevention and Criminal Justice Division of the Secretariat to continue its resource mobilization efforts, taking into account the recommendations and requests contained in the report of the Chairman of the informal consultative group;

8. *Expresses its appreciation* to the members of the informal consultative group and requests them to continue their work and to report thereon to it at its seventh session;

9. *Decides* that the informal consultative group should also serve as the mechanism envisaged in its resolution 5/2, paragraph 15.

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[*] See background document entitled "Technical Assistance in Crime Prevention and Criminal Justice: Why, How and When?".

[128] E/CN.15/1997/CRP.1.

Chapter II

TENTH UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS

5. The Commission considered item 3 of its agenda at its 7th and 8th meetings, on 30 April 1997 and 5 May 1997. It had before it the report of the Secretary-General on preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (E/CN.15/1997/2 and Corr.1 and Add.1).

6. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division of the Secretariat provided an assessment of the preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Cairo from 29 April to 8 May 1995, on the basis of the views expressed by the Commission at its fourth and sixth sessions. He also summarized the views of Member States regarding the agenda items and workshop topics, drawing attention to the views of United Nations entities, other intergovernmental organizations, non-governmental organizations and institutes. He concluded by drawing attention to the specific recommendations for action by the Commission contained in the report of the Secretary-General (E/CN.15/1997/2 and Corr.1, para. 145).

A. Functions of the Tenth Congress

7. Reference was made to the functions of the Tenth Congress, specified in the statement of principles and programme of action of the United Nations Crime Prevention and Criminal Justice Programme (General Assembly resolution 46/152, annex). It was stressed that the United Nations congresses on the prevention of crime and the treatment of offenders had served as global events and worldwide forums for sharing experiences and know-how, aimed at influencing national policies, mobilizing public opinion, recommending lines of action at all levels and focusing attention on major issues of concern to Member States and the professional and scientific community. The holding of the Tenth Congress would be a landmark event at the dawn of the twenty-first century, representing one further step towards achieving safety and security for all citizens. Great importance was attached to the Tenth Congress, which should be practical rather than theoretical and specific rather than general. It should provide political directions to the Commission and act as a catalyst, not only in taking stock of new developments, but also in facilitating the exchange of information and the sharing of experiences, as well as the formulation and coordination of crime prevention and criminal justice strategies.

B. Organizational aspects

8. Broad support was expressed for the format followed for the Ninth Congress. Many representatives were of the view that certain organizational issues needed to be dealt with. Those issues included the relationship between the Commission and the Tenth Congress, the status of the workshops as an integral part of the programme of the Tenth Congress, and the consideration of draft resolutions. A single declaration containing the recommendations of the Tenth Congress should represent its results for consideration and action by the Commission. It was stressed that it was important to apply the rules of procedure for United Nations congresses on the prevention of crime and the treatment of offenders (Economic and Social Council resolution 1993/32, annex), in particular rule 28, on the submission of draft resolutions on topics selected for consideration by the Congress. It was also suggested that the rules of procedure should be reviewed in order to accommodate the work and results of the workshops to be organized, with the authorization of the Commission, by interested parties. The workshop topics should be more focused.

9. One representative questioned the need to hold the regional preparatory meetings and suggested that the preparatory activities should be undertaken entirely by the Commission, if necessary, through inter-sessional meetings. Another participant was of the view that the regional preparatory meetings were of great value as they brought together representatives of the relevant ministries, such as the ministries of justice and of the interior, as well as the judiciary, and provided a standing forum in which to discuss regional concerns regarding crime prevention and criminal justice matters. It was recommended that the agenda of the Tenth Congress should be simplified and less comprehensive. The proposal to have a presentation at the Tenth Congress on the state of crime in the world was welcomed.

10. Many participants were of the view that the draft resolution on the preparations for the Tenth Congress reflected the standard practice of preparing for the congresses, with the exception of the inclusion of a high-level segment reserved for representatives at a high political level, such as heads of state, government ministers and attorneys-general, to be devoted to a specific theme of interest to the international community requiring particular attention. The draft was considered a good basis for initiating consultations aimed at reaching an agreed upon formulation of the substantive agenda items and identifying specific topics for the workshops. It was suggested that the Commission should first agree on the items and that the bureau should then specify the topics. The general themes identified in the draft resolution were broad enough to cover the various aspects of crime prevention and criminal justice. More work would be needed to finalize the agenda items of the Tenth Congress and to identify the topics for the workshops.

C. Substantive aspects

11. Regarding the substantive aspects of the preparations for the Tenth Congress, many suggestions were made on the theme, agenda items and workshop topics. In addition to the proposals on the theme of the Tenth Congress that had been included in the report of the Secretary-General, the theme "The protection of mankind and the environment from crimes and offenders" was proposed by one participant.

12. Suggestions on subjects to be included as agenda items included the following: mutual assistance in criminal cases and extradition; international exchange of information between law enforcement and judicial authorities; identification of problems in the implementation of existing international instruments; the need for further work on international instruments, such as an international convention on organized transnational crime; tracing and seizure of assets, including bank secrecy and international asset-sharing; methods for gathering and analysing operational data on transnational crime; illicit trafficking in arms and explosives; crime against protected fauna and flora; computer-related crime and credit card crime; terrorism, including the links between organized crime and terrorist crime; organized crime; corruption; drug-related crime; high-technology crimes; international cooperation and assistance in combating organized transnational crime; illicit trafficking in children; and illegal migrants.

13. Other issues recommended included crime analysis and criminal policy in relation to development and globalization; development of an action plan for the twenty-first century; public safety and social participation; crime prevention and the role of criminal justice in relation to citizen participation; crime prevention through technical cooperation and mutual assistance; strategies for dealing with the problem of inadequate security for citizens; violent crime, including violence against women and children; street children and their social and legal protection; xenophobia and racial crimes; victims of crime, including victims of war and genocide; human rights in the administration of justice; developing new strategies for non-custodial and custodial corrections; and treatment of prisoners and prison conditions.

14. With regard to possible topics for the workshops, the following issues were identified: model approach to crime prevention; extradition; guaranteeing justice for victims and offenders; computerization of criminal justice systems; technological and economic crime; crimes against the environment; regulation of firearms and explosives and creation of a database on firearms; development of alternatives to imprisonment; measures to prevent violence in society, including violence against women and children; relation between organized transnational crime and violent crime and terrorism; technical cooperation and coordination of activities of international bodies and intergovernmental, national and private organizations; international instruments and measures involving practical cooperation for the protection of vulnerable groups and social segments, including women and children; and new approaches to crime prevention. It was noted that the Eleventh Coordination Meeting of the United Nations Crime Prevention and Criminal Justice Network, held at Courmayeur, Italy, on 2 and 3 October 1996, had identified four topics of particular relevance: corruption; partnerships in crime prevention; women in the criminal justice system; and indicators of crime and the performance of the criminal justice system. It was suggested that the four topics should be taken into account when finalizing the preparations for the Tenth Congress.

15. In order to deal with the selection of the substantive agenda items and of the related workshops, an informal working group was established, chaired by Matti Joutsen (Finland). The outcome of its deliberations is reflected in operative paragraphs 2 and 3 of the draft resolution entitled "Preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders". For the text, see chapter I, section A, draft resolution II. The working group also discussed the basic outline of the agenda items, namely:

(a) *Promoting the rule of law and strengthening the criminal justice system*. The focus of the topic would be on "institution-building" for the promotion of the rule of law and the strengthening of the operation of the criminal justice system. The issue of corruption, including its role in the dissipation of human and material resources would be addressed. (Corruption would be dealt with as a workshop under the same agenda item.) This topic should also deal with model technical cooperation programmes, as well as the need for and the funding of such programmes;

(b) *International cooperation in combating transnational crime: new challenges in the twenty-first century*. The focus under this topic should be on methods for improving the procedure in international cooperation. This should include a discussion on the following: problems in mutual assistance in criminal cases and in extradition; a discussion of the international exchange of information between law enforcement and judicial authorities; problems in the implementation of existing international instruments; further work on international instruments (including an international convention or conventions); the tracing and seizure of assets (including bank secrecy and international asset-sharing); and methods for gathering and analysing operational data on transnational crime. These problems arise to different degrees in connection with different forms of transnational crime, such as organized crime, terrorism and its links with organized crime, environmental crime, illicit trafficking in cultural property, money-laundering, the smuggling of aliens, high-technology crime, and crimes related to the computer network. Among the specific issues to be addressed are the following: the refusal by some States to extradite, citing the political offender exception; the promotion of cooperation in tracing and seizing assets; questions of international jurisdiction; questions of the obligation to prosecute or extradite; and questions of international compensation;

(c) *Effective crime prevention: keeping pace with new developments*. This topic should deal with both "traditional" and "modern" crime, such as xenophobia and racism, and should seek to identify the best practice in prevention under different circumstances, taking into account legal aspects and human rights. It should have a problem-solving approach. Attention should be given to the evaluation of crime prevention projects. Special attention should be given to the impact of new developments, including new forms of crime, new manifestations of crime and the impact of new technology both on creating possibilities for crime and on preventing crime. The possibility of strengthening community involvement in crime prevention was regarded as being of particular importance and should be addressed in a separate workshop;

(d) *Offenders and victims: accountability and fairness in the justice process*. This topic should deal with the following: holding offenders accountable, providing them with appropriate treatment and reintegrating them into the community; providing the victim with access to justice and support, making the justice system more responsive to the needs and concerns of the victim and simplifying criminal procedure; and assisting the community in identifying and remedying causes of crime. Special attention should be paid to how the search for a balance among the above-mentioned elements could assist in identifying more effective sanctions (such as restitution), which at the same time could serve to reduce the prison population and ease prison overcrowding. The topic could be encapsulated in the concept known as "restorative justice".

D. Venue

16. The representative of Austria stated that his Government believed in the importance of the United Nations congresses on the prevention of crime and the treatment of offenders and that, as Austria had not yet hosted one of the congresses, his Government would be honoured to host the Tenth Congress at Vienna.

17. The representative of South Africa informed the Commission that his Government would like to formally offer to host the Tenth Congress, subject to the outcome of negotiations between his Government and the relevant United Nations policy-making bodies, particularly with reference to cost differentials and other financial implications. He expressed the hope that the Commission at its seventh session would be informed of the outcome of such negotiations.

E. Chairman's summary

18. In summarizing the discussion, the Chairman stated that there was broad support expressed by many speakers for the format followed for the Ninth Congress. Organizational aspects, such as the relationship between the Commission and the congresses, the status of the workshops and the consideration of draft resolutions required particular attention. The suggestion made regarding the substantive aspects of the Tenth Congress preparations reflected the wish of Member States to focus on precisely defined topics. The draft resolution on the preparations for the Tenth Congress was considered a good basis for consultations on that issue.

ACTION TAKEN BY THE COMMISSION

19. At its 15th meeting, on 8 May 1997, the Commission recommended to the Economic and Social Council for adoption by the General Assembly, as orally amended, a revised draft resolution entitled "Preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders" (E/CN.15/1997/L.2/Rev.1), sponsored by Angola, Austria, Colombia, Croatia, Fiji, Finland, Malawi, Qatar, Slovenia and Tunisia. For the text, see chapter I, section A, draft resolution II.

Chapter III

PROMOTION AND MAINTENANCE OF THE RULE OF LAW AND GOOD GOVERNANCE; ACTION AGAINST CORRUPTION

20. The Commission considered item 4 of its agenda at its 8th meeting, on 5 May 1997. It had before it the report of the Secretary-General on action against corruption and bribery (E/CN.15/1997/3 and Add.1) and the report of the Secretary-General on technical cooperation and coordination of activities (E/CN.15/1997/17).

21. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division drew the attention of the Commission to the views of Governments reflected in the report of the Secretary-General on action against corruption and bribery (E/CN.15/1997/3). Governments regarded the adoption of the International Code of Conduct for Public Officials (General Assembly resolution 51/59, annex) and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions (General Assembly resolution 51/191, annex) as increasing the momentum towards advancing international agreements and cooperation arrangements to combat corruption. He also referred to the views of Member States on the implementation of the United Nations Declaration on Crime and Public Security (General Assembly resolution 51/60, annex), which were reflected in the report of the Secretary-General on technical cooperation and coordination of activities (E/CN.15/1997/17).

22. Many representatives shared the opinion that successful action against corruption and bribery should be based on a strong and sustained commitment of Governments to combat the phenomena in all their manifestations. They also recalled their experiences in establishing appropriate mechanisms to prevent and control corruption and bribery, especially within the public sector.

23. Among the preventive measures stressed were the establishment or strengthening of already existing auditing institutions or agencies having the authority and capacity to scrutinize public expenditure, the elaboration and introduction of codes of ethics for certain categories of professions, measures to ensure accountability and effective disciplinary action, measures to guarantee the independent status of officials working within the public sector or in charge of fighting against corruption and bribery, and educational programmes to promote ethical values and training programmes for law enforcement officers.

24. Particular importance was attached to measures taken at the national level to promote transparency in the expenditure of public funds by allowing or encouraging public access to and monitoring of the related decision-making process. Several participants stressed that public participation, involvement and cooperation were essential prerequisites for ensuring effective and sustainable measures to prevent and control corruption and bribery, as well as for enlisting support and cooperation to help defeat the consensual nature of corruption and bribery.

25. Broad support was expressed for the International Code of Conduct for Public Officials and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions. The principles contained in those instruments were viewed as providing a useful basis for national action against corruption and bribery.

26. With regard to action at the international level, it was noted that the fight against corruption and bribery implied both refined procedures of mutual assistance, appropriate to the required complicated financial and economic investigations, and punishability of corruption and bribery committed by foreign officials.

27. Several participants, while recognizing that action already under way at the national or regional level should continue and be intensified, noted that an international convention against corruption and bribery, in line with General Assembly resolution 51/191, could be a further mechanism against corrupt practices.

28. Many representatives emphasized the importance of technical assistance programmes to combat the phenomena of corruption and bribery. The assistance provided by the Crime Prevention and Criminal Justice Division in the fight against corruption and money-laundering in Romania was mentioned in that context.

29. One representative drew the attention of the Commission to the title of agenda item 4, noting that the term "good" was not precise and suggested that it should be replaced with "transparent" or "accountable" or both.

30. The conclusions and recommendations of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997 (E/CN.15/1997/3/Add.1, annex), were welcomed. The Meeting had been organized by the Crime Prevention and Criminal Justice Division and hosted by the Minister of Justice of Argentina. Particular importance was attached to the recommendations of the Meeting, which some participants strongly believed should form the basis for further work aimed at producing useful tools to be used within the framework of technical assistance activities.

31. Regional initiatives dealing with corruption and bribery were cited. Reference was made to the Inter-American Convention against Corruption, which had been approved by the Organization of American States at a special conference held at Caracas from 27 to 29 March 1996. The Council of Europe had established a multidisciplinary group on corruption and had elaborated two draft conventions that were currently under discussion. It had also presented a comprehensive plan of action against corruption composed of coordinated measures, including administrative, civil, procedural and criminal legislation, as well as various regulatory provisions and administrative action designed to prevent and control corruption and bribery. Mention was made of a conference, scheduled to be held in June 1997 under the aegis of the Council of Europe, that would focus on the relationship between corruption and organized crime. Initiatives by the Organisation for Economic Co-operation and Development (OECD), particularly its recommendations on bribery in international business transactions, were also mentioned. Some participants stressed the necessity of avoiding duplication of work of other international forums, especially the work of OECD.

32. Reference was also made to a training seminar on anti-corruption strategies for nine countries in central and eastern Europe and in the Commonwealth of Independent States that had been held at Budapest in April 1997. The training seminar had been organized by the United Nations Interregional Crime and Justice Research Institute.

33. Finally, reference was made to follow-up activities, particularly technical assistance projects, carried out in the context of the implementation of the United Nations Declaration on Crime and Public Security, which contained a provision on the enforcement of domestic laws against corruption and bribery and on the promotion of international cooperation to curb corrupt practices.

34. In summarizing the discussion of the Commission on agenda item 4, the Chairman stated that it had demonstrated that the participants viewed corruption and bribery as highly complex phenomena that were common to all societies and all types of government and that had become cause for serious concern. Many participants had emphasized the negative impact of corrupt practices on social, economic and political development, especially in developing countries and in countries with economies in transition. Particular attention was paid to the relationship between corruption and organized crime, especially the ways in which corruption and bribery were used by organized criminal groups to carry out their activities.

ACTION TAKEN BY THE COMMISSION

35. At its 15th meeting, on 9 May 1997, the Commission recommended to the Economic and Social Council for adoption by the General Assembly, as orally amended, a draft resolution entitled "International cooperation against corruption and bribery in international commercial transactions" (E/CN.15/1997/L.22), sponsored by Angola, Argentina, Costa Rica, Hungary, Gambia, Fiji, Lesotho, Paraguay, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Saudi Arabia and United States of America. For the text, see chapter I, section A, draft resolution IV.

36. Following informal consultations on the text of the draft resolution contained in E/CN.15/1997/L.22, the draft resolutions contained in E/CN.15/1997/L.12 and E/CN.15/1997/L.17 were withdrawn by their sponsors.

Chapter IV

CRIMINAL JUSTICE REFORM AND STRENGTHENING OF LEGAL INSTITUTIONS

37. The Commission considered item 5 of its agenda at its 8th and 9th meetings, on 5 and 6 May 1997. It had before it the following documents:

(a) The report of the Secretary-General on measures to regulate firearms (E/CN.15/1997/4 and Corr.1);

(b) The report of the Secretary-General on international cooperation and assistance in the management of the criminal justice system: computation of criminal justice operations and the development, analysis and policy use of crime and criminal justice information (E/CN.15/1997/5);

(c) Addendum to the report of the Secretary-General on international cooperation and assistance in the management of the criminal justice system, containing the report of the Expert Group Meeting on Criminal Justice Management and Information Projects: Improving National and International Data Collection and Exchange, held at Buenos Aires from 10 to 13 March 1997 (E/CN.15/1997/5/Add.1);

(d) Report of the Expert Group Meeting on Gathering Information on and Analysis of Firearm Regulation, held at Vienna from 10 to 14 February 1997 (E/CN.15/1997/CRP.4);

(e) Draft "United Nations international study on firearm regulation" (E/CN.15/1997/CRP.6);

(f) Draft resource book entitled "United Nations Crime and Justice Information Network: providing information to and from developing countries" (E/CN.15/1997/CRP.12).

A. Measures to regulate firearms

38. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division recalled that the Economic and Social Council, in its resolution 1996/28, had requested the Secretary-General to submit to the Commission a study on firearm regulation, including recommendations for further concerted action at the national and transnational levels.

39. In stressing the importance of the recommendations of the Expert Group Meeting on Gathering Information on and Analysis of Firearm Regulation, held at Vienna from 10 to 14 February 1997 (E/CN.15/1997/4 and Corr.1, annex I), the Officer-in-Charge noted that the project was ongoing, requiring additional expertise and resources and asked Member States that had not replied to the survey to do so by 30 September 1997 so that the information contained in their replies could be incorporated into the final version of the study. He expressed his appreciation to the Government of Japan for its initiative in developing the project and for its contribution related to the implementation of the project. He also thanked the Governments of Australia and Canada for their contributions.

40. The Commission was briefed on the progress achieved to date in the project. Reference was made to the key findings of the draft study (E/CN.15/1997/4 and Corr.1, annex II).

41. Participants of the Commission expressed their satisfaction with the outcome of the study, as well as with the recommendations of the Expert Group Meeting. In particular, the representative of Japan announced its further extrabudgetary contribution of US$ 140,000 to the project and urged other Member States to donate

funds to ensure that the project would be fully implemented. The observers for India, Slovenia and the United Republic of Tanzania officially declared their intention to host regional workshops on the question of firearm regulation, in accordance with the workplan approved by the Economic and Social Council in its resolution 1996/28.

42. Many participants noted that the smuggling of firearms was increasing and that international cooperation in combating the smuggling of firearms was becoming more and more important. Several participants expressed their concern over the links between illicit trafficking in firearms and organized transnational crime, including drug trafficking. A number of participants supported the development of a declaration on firearm regulation. The necessity to develop a United Nations model agreement on combating illicit trafficking in firearms was noted, as well as the importance of continuing the study, in the context of regional proposals for model agreements to combat illicit trafficking in firearms. Several participants referred to action against illicit trafficking in firearms taken by heads of state, States in eastern and southern Africa, the Council of Arab Ministers of the Interior, the European Community and the Organization of American States.

43. Several participants supported harmonization of the regulation of firearms. However, some emphasized that the sovereignty of States with regard to the making of policy decisions in that area should be fully respected and that legitimate uses of firearms existed and should be respected. Several participants stated that their States had enacted new, more severe legislation or had introduced stricter regulations on firearms.

44. The importance and usefulness of information-sharing were stressed. Such information-sharing required the enhancement of the database on firearm regulation. One representative noted that two additional databases would be of use: one on firearms and their manufacturers and another on firearms used in crime (e.g. ballistic features of firearms). Another representative expressed the view that a similar study on explosives should be implemented along the lines of the study on firearms, as explosives represented another matter of grave concern.

45. The observer for a non-governmental organization was of the opinion that the draft study, *inter alia*, should have been more transparent and accessible to entities other than Member States and that it did not make adequate use of various research studies. He emphasized that the international aspects of combating illicit firearm smuggling and trafficking should be a priority in further pursuing the project at the intergovernmental level. An observer for another non-governmental organization, the author of one of the research studies cited by the previous observer, stated that that citation misrepresented the findings of her research.

B. International cooperation and assistance in the management of the criminal justice system: computerization of criminal justice operations and the development, analysis and policy use of crime and criminal justice information

46. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division expressed his gratitude to the Government of Argentina for organizing at Buenos Aires from 10 to 13 March 1997, the Expert Group Meeting on Criminal Justice Management and Information Projects: Improving National and International Data Collection and Exchange (E/CN.15/1997/5/Add.1, annex). He also thanked the Ministry of Justice of the Republic of Korea for its assistance in hosting an interregional training course in September 1996 on providing information to and from developing countries and for offering to publish the proceedings of that meeting as a resource book. Finally, he informed the Commission about recent developments in the United Nations On-line Crime and Justice Clearing-House (UNOJUST).

47. There was agreement that the enhancement of national capacities in the collection and processing of criminal justice data was essential for better and more informed decision-making and was at the core of good

governance. Many participants referred to the need for more effective and efficient methods of sharing information between the agencies of criminal justice systems, domestically and internationally; the United Nations Crime and Justice Information Network and UNOJUST were mentioned as the logical forums for such communication.

48. Participants reported on projects for the modernization of their criminal justice systems. There was agreement that the collection and exchange of data, through the periodical United Nations surveys of crime trends and operations of criminal justice systems, could further help in systematizing approaches to gathering and sharing international data on crime trends.

49. Support was expressed for the possible formation of an advisory steering group to be administered by the Secretary-General. Such a proposal was originally agreed upon by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August to 7 September 1990; however, the proposal had only recently been revived. It was emphasized that the establishment of the steering group would be a sound strategy to assist the Secretariat in improving the collection of data. Two participants reported to the Commission that their Governments would be able to offer extrabudgetary support to host meetings of the advisory steering group. One representative added that his Government had supported the work of an expert for needs assessment missions on the computerization of criminal justice systems, carried out within the United Nations Crime Prevention and Criminal Justice Programme, in cooperation with the Division and the European Institute for Crime Prevention and Control, affiliated with the United Nations. In addition, participants supported the view that national agencies to collect statistics should be formed to assist Governments in that area as well as to help coordinate the work to be carried out by the advisory steering group.

50. In joining other participants in welcoming the possibility of establishing such an advisory steering group, the observer for the United Nations Interregional Crime and Justice Research Institute informed the Commission about the range of practical training activities and projects carried out by the Institute, especially for prosecutors and magistrates.

51. The Chairman noted that several representatives had expressed the support of their Governments for continuing the collection of data and information on firearm regulation and had stressed the need to harmonize regulatory efforts. Several participants had stressed that Governments needed to efficiently collect, maintain and use statistics on crime and criminal justice and that the advisory steering group represented a logical mechanism for structuring the work of the Secretariat in that field.

ACTION TAKEN BY THE COMMISSION

52. At its 14th meeting, on 8 May 1997, the Commission approved for adoption by the Economic and Social Council, as orally amended, a revised draft resolution entitled "Strengthening of the United Nations Crime Prevention and Criminal Justice Programme with regard to the development of crime statistics and the operations of criminal justice systems" (E/CN.15/1997/L.5/Rev.1), sponsored by Argentina, Australia, Bolivia, Brazil, Canada, China, Colombia, Denmark, Egypt, Fiji, Finland, Gambia, Greece, India, Indonesia, Netherlands, Nigeria, Qatar, Russian Federation, Saudi Arabia, Senegal, Spain, Sweden, Thailand, Tunisia and United States of America. For the text, see chapter I, section B, draft resolution I.

53. At its 15th meeting, on 9 May 1997, the Commission approved for adoption by the Economic and Social Council, as orally amended, a revised draft resolution entitled "Firearm regulation for the purpose of crime prevention and public health and safety" (E/CN.15/1997/L.19/Rev.1), sponsored by Angola, Australia, Brazil,

Brunei Darussalam, Burundi, Canada, Colombia, Croatia, Fiji, France, Gambia, Germany, Greece, Haiti, Italy, Japan, Lesotho, Malaysia, Mexico, Morocco, Netherlands, Philippines, Poland, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Sweden, Thailand, Tunisia and United Republic of Tanzania. For the text, see chapter I, section B, draft resolution II.

Chapter V

INTERNATIONAL COOPERATION IN COMBATING TRANSNATIONAL CRIME

54. The Commission considered item 6 of its agenda at its 4th, 5th and 6th meetings, on 29 and 30 April 1997. It had before it the following documents:

(a) Report of the Secretary-General on extradition and international cooperation in criminal matters (E/CN.15/1997/6 and Corr.1);

(b) Report of the Secretary-General on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (E/CN.15/1997/7);

(c) Report of the Secretary-General on the question of the elaboration of an international convention against organized transnational crime (E/CN.15/1997/7/Add.1 and 2);

(d) Report of the Secretary-General on measures to combat the smuggling of illegal migrants (E/CN.15/1997/8 and Add.1);

(e) Report of the Secretary-General on measures for the prevention and suppression of illicit trafficking in motor vehicles (E/CN.15/1997/9);

(f) Report of the Secretary-General on the role of criminal law in the protection of the environment (E/CN.15/1997/10 and Add.1 and 2);

(g) Report of the Conference on International Cooperation in the Prevention and Control of the Theft of, and Illicit Trafficking in, Motor Vehicles, held in Moscow from 28 February to 2 March 1997 (E/CN.15/1997/CRP.3);

(h) Statement from the Organization for Security and Cooperation in Europe (E/CN.15/1997/CRP.5).

55. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division noted that, since the adoption by the Economic and Social Council of its resolution 1996/27 on the recommendation of the Commission at its fifth session, Member States, intergovernmental and non-governmental organizations and institutes had made tremendous efforts to give effect to the provisions of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/49/748, annex, sect. I.A), as reflected in the various reports of the Secretary-General. The Officer-in-Charge underlined the progress made by all concerned on the other subitems of agenda item 6, namely the question of the elaboration of an international convention against organized transnational crime; extradition and international cooperation in criminal matters; smuggling of illegal migrants; illicit trafficking in motor vehicles; and the role of criminal law in the protection of the environment.

A. Implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime

56. The discussion reflected the relevance of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, which guided Member States and agencies in their efforts to combat such crime. Emphasis was placed on the need to continue paying particular attention to the practical implementation of its provisions.

57. The Council of the European Union had recently endorsed a plan of action to combat organized crime containing 15 political guidelines and 30 recommendations. Among the most important guidelines was a proposal to make it an offence to participate in a criminal organization. Previously, 40 recommendations on combating organized transnational crime had been endorsed by the heads of State or Government of the major industrialized countries at the summit held at Lyon, France, from 27 to 29 June 1996. The follow-up to the Naples Political Declaration should remain one of the priorities of the United Nations Crime Prevention and Criminal Justice Programme, and member States of the European Community should remain committed to the measures contained in the Global Action Plan. It was noted that criminals paid little attention to national frontiers. International cooperation had become a prerequisite for the prevention and investigation of many types of crime; States needed to pool their resources in order to maximize the chances of halting the tide of crime, especially cross-border crime.

58. The view was expressed that the perpetrators of organized crime obtained their wealth by engaging in illegal activities, such as drug trafficking, and did not hesitate to extend their activities to include fraud, corruption and coercion in order to obtain material gains. They used modern sophisticated technologies to avoid direct confrontation with the law. With the introduction of new laws and strict measures by law enforcement agencies, criminals tended to expand their illegal activities into other countries.

59. It was stressed that organized criminal activity thrived on greed and profit, adversely affected political stability and social and cultural values and threatened the national security of States. The trend towards open borders, changes in the world political scene, rapidly changing social and economic structures, the introduction of more modern and efficient communications systems and information technology and the improvement in international transportation had enabled criminals to perpetrate transnational crimes with efficiency and in secrecy. Responding to the threat posed by organized transnational crime would require close cooperation at the international level. Important changes had occurred in the structure and dynamics of organized crime at the national and transnational levels, including new manifestations of money-laundering, robbery and corruption. Some territories had begun to be used as transit points for organized criminal activities, such as drug trafficking and trafficking in firearms and explosive materials. Such crimes threatened the integrity of financial and commercial sectors, endangered national sovereignty and defied national borders.

60. Reference was made to new measures taken by Member States, including new legislation on criminal organizations, new codes and plans of action and bilateral agreements. In some countries, task forces had been established to improve the cross-border exchange of information, to prepare and execute operational activities, to improve judicial cooperation and to educate officials, including police, customs, coastguard and other law enforcement authorities. The financial and human resources allocated to confront the menace of organized transnational crime constituted a significant proportion of law enforcement budgets. Efforts had been made to make criminal justice systems more effective, to upgrade the relevant institutions and to establish units to deal with organized criminal networks. Equally important were the efforts made to put in place coherent judicial systems to deal with money-laundering and other related forms of crime.

61. Various countries reported that they had taken initiatives to foster regional cooperation and mutual exchange of intelligence as part of the fight against organized transnational crime. Cooperation between the Commission on Crime Prevention and Criminal Justice and the Commission on Narcotic Drugs, particularly in areas related to control of money-laundering and the illicit transfer of assets, was seen to be useful and timely. In that context, bank secrecy regulations needed to be revised. In order to enhance cooperation at the regional and subregional levels, support was expressed for the Buenos Aires Declaration on Prevention and Control of Organized Transnational Crime (E/CN.15/1996/2/Add.1, annex), adopted by the Regional Ministerial Workshop on Follow-up to the Naples Political Declaration and Global Action Plan against Organized Transnational

Crime, held at Buenos Aires from 27 to 30 November 1995. Some delegations were of the view that a regional seminar should be organized in Asia, similar to the one planned for the African region.

62. Broad support was expressed for the proposals made by the Secretary-General in his report on the implementation of the Naples Political Declaration and Global Action Plan (E/CN.15/1997/7, para. 60) on (a) the maintenance and expansion of the central repository, with a view to updating it on a yearly basis, in order to make it a truly useful tool of the international community for monitoring developments in legislation, policies and strategies against organized transnational crime; (b) the provision of assistance to Member States to collect and systematize data and other information; and (c) the development of model legislation and training manuals for law enforcement personnel, which would form the backbone of the advisory services and training activities of the Crime Prevention and Criminal Justice Division. Many representatives expressed the willingness of their Governments to cooperate in the above-mentioned initiatives and to work together towards their realization.

B. Question of the elaboration of an international convention against organized transnational crime

63. Many participants spoke on the question of the elaboration of an international convention against organized transnational crime. The majority expressed their support for the elaboration of such a convention and underlined its importance and potential. Several participants also emphasized the urgency of undertaking such a task in the light of the worldwide expansion of organized transnational crime. Some participants were of the view that, going into the next millennium, such a convention could provide the basis for the harmonization of national legislation against organized transnational crime, thus eliminating legal loopholes and havens for organized criminal groups. The Minister of Justice of the Netherlands, speaking on behalf of the member States of the European Union, declared that those States fully supported General Assembly resolution 51/120, on the question of the elaboration of an international convention or conventions against organized transnational crime. Several participants were of the view that the convention should be an operational instrument and not just a statement of principles. A number of participants recommended that the 40 recommendations elaborated by the Senior Experts Group on Transnational Organized Crime and endorsed at Lyon, France, in June 1996 on the subject should be taken into account in the elaboration of such an instrument.

64. Several participants expressed their gratitude to the Polish Government for taking the initiative of proposing a draft United Nations framework convention against organized crime (A/C.3/51/7, annex) and to the Fondazione Giovanni e Francesca Falcone for organizing an informal meeting on the question of the elaboration of an international convention against organized transnational crime, held at Palermo, Italy, from 6 to 8 April 1997. While most participants agreed with the thrust of the proposal for a convention, there was widespread recognition of the difficulties in reaching an agreeable and workable definition of organized transnational crime or an agreement on the offences to which such a convention might apply. Some participants felt that an approach based on the seriousness and punishability of offences might also be explored.

65. It was pointed out that a gradual approach to elaborating the convention would be desirable. Consensus among Member States on basic directions and fundamental elements should be pursued first, in an effort to lay the groundwork for subsequent discussions on the substance of its provisions. Whereas one participant stressed the importance of undertaking a careful study on existing international legal mechanisms in order to avoid duplication, others were of the view that consideration of the proposal should begin immediately. Specific proposals on additional topics to be included were made, such as extradition, money-laundering, terrorism, trafficking in firearms, trafficking in children, trafficking in illegal migrants, trafficking in nuclear material, confiscation

of proceeds of crime, transfer of proceedings. In addition, several participants expressed their views on specific articles of the draft convention, for example, articles 3, 4, 5 and 10.

66. It was stressed that the convention should reflect the political, economic and cultural background of different States, taking into account national sovereignty and national legislations.

C. Extradition and international cooperation in criminal matters

67. It was noted that extradition was one of the most effective tools available to the international community in the context of international cooperation in criminal matters to combat organized transnational crime. In that respect, broad support was expressed for the recommendations of the Intergovernmental Expert Group Meeting on Extradition, held at Siracusa, Italy, from 10 to 13 December 1996 (E/CN.15/1997/6 and Corr.1, annex), in response to a request by the Economic and Social Council in its resolution 1995/27, section I.

68. Several participants drew attention to the non-extradition of nationals, adding that refusal of requests for extradition remained a significant impediment to eliminating loopholes used by criminals. It was pointed out that measures such as extradition and surrender or transfer agreements should be adopted that would allow for nationals to be transferred or extradited for trial purposes and to be returned to their States of nationality to serve any sentences imposed. Other participants were of the opinion that non-extradition of nationals was inextricably connected with national sovereignty and, therefore, the national and constitutional requirements of Member States should be taken into consideration. Another participant questioned the proposed modification of the Model Treaty on Extradition (General Assembly resolution 45/116, annex), article 4, concerning the extradition of nationals, and stressed the need to respect human rights should the above-mentioned proposed measures be adopted. It was further reiterated that the protection of human rights should not be considered inconsistent with effective international cooperation in criminal matters, as adherence to the rule of law and respect for human rights resulted in more effective cooperation. Several participants were of the view that the use of the political offence exception to extradition was excessive and should be limited, particularly in the case of terrorist crimes.

69. Particular importance was attached to the need to elaborate model legislation in the field of extradition in order to assist Member States in giving effect to the Model Treaty. Reference was also made to the urgent need to develop technical cooperation in order to enhance the mechanisms of extradition, particularly by providing training for professional officers in developing countries and in countries with economies in transition.

70. Some participants stated that, although the conclusion of an extradition treaty constituted an effective means of preventing international crime, the absence of such a treaty should not necessarily hamper cooperation between the States concerned. The view was also expressed, however, that the time might be ripe to elaborate a new multilateral treaty on extradition, drawing on the experiences of countries and the work accomplished by the United Nations.

71. The proposal to abolish the list-of-offences approach for establishing double criminality and to use the minimum penalty definition of extraditable offences was reiterated.

72. Some participants expressed reservations on the feasibility of consolidating the various model treaties on international cooperation in criminal matters into a comprehensive international instrument to be developed within the United Nations Crime Prevention and Criminal Justice Programme, and of formulating other such

instruments when needed. Others felt that the wider implementation of existing bilateral and multilateral agreements, as well as efforts aimed at harmonizing national legislation and practices, should continue to be encouraged.

73. Reference was made to the various initiatives undertaken by Member States and organizations regarding the conclusion of bilateral agreements, the introduction of simplified extradition procedures and the conduct of studies on extradition at the national and regional levels.

D. Smuggling of illegal migrants

74. The experiences of many Member States in respect of illegal migrants were highlighted. It was noted that the smuggling of illegal migrants not only caused mental and physical harm and financial hardship to the illegal migrants, but also affected the social stability and bilateral relations of the countries involved. In addition, the smuggling of illegal migrants was, to some extent, linked with organized prostitution. Emphasis was placed by many representatives on the need to adopt efficient measures to combat that phenomenon and to intensify the exchange of information and experiences related to it.

75. It was pointed out that in some countries, violence against illegal migrants was becoming an increasingly serious problem, manifested in racist and xenophobic attitudes. Crimes were often committed against such persons by immigration authorities. It was recommended that due attention should be paid by States to the prevention and sanctioning of that form of abuse of power. Immigration laws should focus more on the network of criminal organizations involved in trafficking in migrants than on the punishment of migrants with no legal status. It was suggested that the term "migrants with no papers" should replace the term "illegal migrants". It was pointed out that repatriation procedures should prevent situations that might endanger the integrity, dignity and human rights of migrants. It was suggested that, as there were many complex aspects to the issue, the Commission should keep the question, in particular the prevention of crimes committed against migrants, under constant review.

76. It was underlined that the valuable information provided by Governments and intergovernmental organizations, as reflected in the various reports of the Secretary-General on the issue, would enable the Commission to devise an effective approach aimed at developing more compatible and harmonized countermeasures in terms of policy and practice at all levels. To that end, it was suggested that a database on the actual forms and dimensions of the transborder smuggling of illegal migrants and the various criminogenic factors involved should be established and that bilateral agreements and other arrangements to deal with trafficking in illegal migrants should be encouraged.

E. Illicit trafficking in motor vehicles

77. Of particular concern to many States was the theft of and illicit trafficking in motor vehicles, which represented a phenomenon of increasing gravity. The recommendations of the Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996 (E/CN.15/1997/9, annex), and the declaration adopted by the Conference on International Cooperation in the Prevention and Control of the Theft of and Illicit Trafficking in Motor Vehicles, held in Moscow from 28 February to 2 March 1997, were welcomed as useful measures for all States interested in improving the effectiveness of their response to illicit trafficking in motor vehicles. A number of representatives reported on measures that had recently yielded positive results in the fight against that form of crime at the national level, in particular improved vehicle registration systems, the establishment of national databases on stolen cars, training and specialization of police officials and enhanced coordination among the relevant law enforcement agencies. Organized transnational

criminal groups were increasingly engaging in illicit trafficking in motor vehicles, an illicit activity that involved high profits and low risks.

78. Cooperation among States was required to build a common front against illicit trafficking in motor vehicles, which had become a widespread and extremely costly form of crime. Several representatives highlighted the usefulness of the international stolen vehicle database recently established by the International Criminal Police Organization (Interpol). The importance of the model treaty for the return of stolen or embezzled vehicles (E/CN.15/1997/9, annex, para. 4), adopted by the Conference on Theft of and Illicit Trafficking in Motor Vehicles, held at Warsaw on 2 and 3 December 1996, was also stressed. That and similar bilateral and multilateral mechanisms of international cooperation would be instrumental in facilitating the procedure to recuperate stolen vehicles.

F. The role of criminal law in the protection of the environment

79. The Commission underlined the crucial role of criminal law in the protection of the environment. The universality and the serious and complex character of the problem of environmental crime were stressed by numerous representatives, who called for more concerted action at the national, regional and international levels.

80. Many representatives reported on national institutions and criminal provisions that had been enacted or were in the process of being enacted in their countries to protect the environment, including specific provisions such as corporate liability and the protection of cultural heritage. A number of representatives called upon Member States that had not yet done so to include penal provisions for the protection of the environment in their national legislation. The role of criminal law in areas such as illegal trafficking in hazardous and nuclear substances and in endangered species was particularly emphasized. Several participants made reference to the draft convention of the Council of Europe for the protection of the environment through criminal law.

81. A number of representatives emphasized that the Commission should guide the Secretariat in developing a strategy on strengthening the role of criminal law in the protection of the environment. The preparation of a model law on environmental offences, as well as practical instruments such as a manual for practitioners, was supported by several participants. Both initiatives would assist Member States in utilizing criminal law in the protection of the environment and would ultimately facilitate the achievement of the goal of sustainable development. The Crime Prevention and Criminal Justice Division should facilitate the exchange of information, organize study tours and field surveys and foster the intensification of cooperation at the national, regional and international levels, with a view to effectively combating environmental crime. Several participants called for strengthened technical cooperation in that area. The development of a strategy to protect the environment through criminal law should particularly take into account the needs of developing countries and countries with economies in transition. It was stressed that for that reason, cooperation with the United Nations Environment Programme and the World Bank should be strengthened.

82. A number of observers for United Nations entities, intergovernmental organizations and institutes informed the Commission of their initiatives in that area, such as the organization of meetings and training courses on, for example, human rights and environmental protection and on the role of criminal law in the protection of the environment.

83. Concern was expressed about the existing mechanisms for dealing with the problem of environmental crime. For example, particular concern was expressed about the practice followed by some individuals or corporations whereby they would look for countries with weak or unenforced environmental legislation that they could take advantage of. The handling of such action committed against the environment, either by individuals or by corporations, lacked cohesiveness. There was currently no agreed upon international mechanism to deal with such issues, and more should be done for the enhancement of the role of criminal law in the protection of the environment.

G. Chairman's summary

84. In summarizing the discussion, the Chairman stressed the need to continue paying particular attention to the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, taking advantage of the experiences of Member States, which had made tremendous efforts in that regard. The elaboration of an international convention against organized transnational crime would provide the basis for the harmonization of national legislation in that field, thus eliminating legal loopholes and havens for organized criminal groups. Extradition was considered to be one of the most effective tools to advance international cooperation in criminal matters. Broad support was expressed for the recommendations of the Intergovernmental Expert Group Meeting on Extradition, held at Siracusa, Italy. Regarding the issue of smuggling of illegal migrants, the Chairman noted that the views contained in the report of the Secretary-General on the subject (E/CN.15/1997/8 and Add.1) would enable the Commission to devise an effective approach to dealing with the problem. Of particular concern to many States was the theft of and illicit trafficking in motor vehicles. The recommendations of the Warsaw and Moscow conferences were welcomed as useful measures for action at all levels. Finally, efforts by Member States, intergovernmental and non-governmental organizations should be intensified to enhance the role of criminal law in the protection of the environment.

ACTION TAKEN BY THE COMMISSION

85. At its 14th meeting, on 8 May 1997, the Commission approved for adoption by the Economic and Social Council, as orally amended, a revised draft resolution entitled "Measures on the prevention and control of illicit trafficking in motor vehicles" (E/CN.15/1997/L.15/Rev.2), sponsored by Angola, Argentina, Bolivia, Brazil, Croatia, Finland, France, Gambia, Germany, Netherlands, Nigeria, Paraguay, Poland, Russian Federation, Saudi Arabia, Slovakia, Slovenia, Sweden, Uganda and United States of America. For the text, see chapter I, section B, draft resolution III.

86. At its 15th meeting, on 9 May 1997, the Commission recommended to the Economic and Social Council for adoption by the General Assembly two revised draft resolutions, as orally amended. The first revised draft resolution, entitled "International cooperation in criminal matters" (E/CN.15/1997/L.16/Rev.1), was sponsored by Argentina, Australia, Austria, Canada, Egypt, Fiji, Finland, Gambia, Germany, Italy, Netherlands, Philippines, Poland, Portugal, Republic of Korea, Romania, Senegal, South Africa, Sweden, Thailand, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Zimbabwe. For the text, see chapter I, section A, draft resolution V. The second, entitled "Follow-up to the Naples Political Declaration and Global Plan against Organized Transnational Crime" (E/CN.15/1997/L.20/Rev.2), was sponsored by Afghanistan, Angola, Argentina, Australia, Austria, Belgium, Botswana, Brazil, Canada, Colombia, Croatia, Denmark, Egypt, Finland, France, Gambia, Germany, Greece, Haiti, Italy, Japan, Lesotho, Morocco, Netherlands, Nigeria, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Slovakia, South Africa, Spain, Sweden, Tunisia,

United Kingdom of Great Britain and Northern Ireland and United States of America. For the text, see chapter I, section A, draft resolution I.

87. The draft resolution contained in E/CN.15/1997/L.6 was withdrawn by its sponsor.

Chapter VI

STRATEGIES FOR CRIME PREVENTION AND CONTROL, PARTICULARLY IN URBAN AREAS AND IN THE CONTEXT OF PUBLIC SECURITY

88. The Commission considered item 7 of its agenda at its 1st, 2nd and 3rd meetings, on 28 and 29 April 1997. It had before it the following documents:

(a) Report of the Secretary-General on measures to prevent illicit trafficking in children (E/CN.15/1997/12 and Add.1);

(b) Report of the Secretary-General on the elimination of violence against women (E/CN.15/1997/11 and Add.1);

(c) Domestic violence: what next? Seminar and training course on domestic violence issues in Lithuania (Vilnius, Lithuania, 14-17 January 1997) (E/CN.15/1997/CRP.10).

89. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division noted that the issues of violence against women and trafficking in children were rightly being considered, for the first time, under a new item of the agenda, focusing on prevention, the cornerstone of criminal justice efforts. Both questions were indicative of the range of concerns that crime prevention was tackling on various fronts, ranging from the home and the streets of the complex urban environment to beyond national borders.

90. The Officer-in-Charge stated that, as the proposed draft practical measures to eliminate violence against women were based on views and comments received from Governments, specialized agencies and intergovernmental and non-governmental organizations, they should promote equality and fair treatment in the administration of criminal justice, strengthening at the same time the rights of and support for victims. With regard to trafficking in children, many Governments had expressed a view that coincided with the results of the study carried out by the Secretariat, namely, that a universal normative basis to control that phenomenon was urgently required.

91. Many representatives stated that the multidisciplinary approach of the draft measures should contribute to reducing the incidence of criminal violence through criminal law and procedure and enforcement action across sectors and also through criminological research and evaluation, public information, media, consciousness-raising and outreach programmes, victim support services and gender-balanced education on child development. The measures were geared towards ensuring implementation and systematic follow-up, in terms of individual, joint and complementary initiatives, across various programmes and with all relevant partners, in order to render the necessary support to Governments as a consolidated, comprehensive response on the part of the United Nations system.

92. Many participants were of the view that, as women did not have a sufficiently high level of protection throughout the world and as the level of violence against women was seen as an important indicator of the status of women, the draft measures were considered to represent gender-responsive action that would prompt the necessary reform in the field of crime prevention and criminal justice and in matters of criminal policy. Areas that required further examination were suggested, especially domestic violence, the impact of degrading, stereotypic depictions of women in the mass media, especially those in extreme poverty or other difficult circumstances such as war.

93. It was noted that the disproportionate incidence of particular forms of "violence" perpetrated against women and children might be attributed to their vulnerability to victimization, due to discriminatory practices and their particular legal status and standing in society. A number of representatives reported that a wide range of legal and other measures had been taken to deal with gender- and age-based "violence", some of which had involved integrated action on the part of the local community. Both matters were considered worthy of the attention of the Commission on a continuing basis. Various steps had been taken by Governments to advance the status of women, to provide for equal opportunities and to codify civil and political rights. In the wake of the Fourth World Conference on Women held at Beijing from 4 to 15 September 1995, and in connection with the implementation of the Platform for Action adopted by that Conference,[129] Governments had taken action to pursue the strategic objectives concerning violence against women and girl children. The draft measures before the Commission, which were to complement the recommendations of the Fourth World Conference on Women, reflected the resolve of the international community and demonstrated the political will of Governments to do what needed to be done to upgrade the level of response of criminal justice systems.

94. Regarding trafficking in children, there were indications of a dramatic increase in some parts of the world of the abduction of children for commercial purposes by organized criminal syndicates. Abducted children were instrumentally used and exploited in various illicit activities such as the sex trade, forced labour and pornography. There was an urgent need for a universally normative basis to be used as a standard or yardstick for action, spelling out the necessary steps and protection to be put in place for such child victims. That was needed not only to prompt enactment of appropriate legislation, but also to promote cross-border, regional and international cooperative arrangements to curb trafficking in children.

95. Several representatives felt that where trafficking in children was on the rise the criminal justice response was either inadequate or indifferent, with victims looking to different forms of justice, recourse and redress. As with all forms of illicit trafficking, organized criminal syndicates took advantage of loopholes in global law enforcement and detection infrastructure and responses. There was a need to coordinate efforts to close ever-expanding source and demand markets of illicit goods and services, to close ever-shifting transit routes, to break up organized criminal networks and to upgrade law enforcement responses, while providing assistance to those States where the weakest links in the global chain of countermeasures were located.

96. Some representatives pointed to the need for international measures to be taken to combat trafficking in children, in the form of a convention to be elaborated under the auspices of the Commission on Crime Prevention and Criminal Justice. There were gaps in existing international instruments in terms of providing for adequate legal protection for such victims. Some expressed their disappointment about the results of the working group of the Commission on Human Rights on the question of a draft optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Others felt that, nevertheless, account should be taken of those results as they would be relevant in the consideration by the Commission on Crime Prevention and Criminal Justice of a possible new instrument. Still others expressed the view that trafficking in children should be dealt with together with other issues related to organized crime in a single, consolidated instrument.

97. Representatives agreed on the need to pursue viable crime prevention strategies at the national, regional and international levels in a harmonized and coordinated manner. Many States were focusing on enabling legislation that would facilitate law enforcement action domestically and across borders. Training activities were being stepped up to enhance and upgrade national capabilities to a compatible level on an international scale.

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[129] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (A/CONF.177/20 and Add.1), chap. I, resolution 1, annex II.

It was felt that action on the part of the Commission on Crime Prevention and Criminal Justice had to be taken in line with the current needs and priorities of States in the field of crime prevention. The Commission should focus on essential issues and identify effective responses that would have a marked global impact, particularly in urban areas. It was considered important that the Commission should concentrate on subject areas in which other bodies did not have specialized expertise, as well as on those which were being dealt with by other bodies but which warranted a response in the area of crime prevention and criminal justice.

98. In summarizing the main points discussed, the Chairman stressed the fact that trafficking in women and children was a shameful business that had to be halted. The widespread trade in women and children for sexual and other exploitation was one of the most degrading forms of violence. Particular attention should be paid to putting a halt to degrading practices, especially in acute situations such as poverty and war and with respect to particularly vulnerable groups.

ACTION TAKEN BY THE COMMISSION

99. At its 14th meeting, on 8 May 1997, the Commission recommended to the Economic and Social Council for adoption by the General Assembly, as orally amended, a revised draft resolution entitled "Crime prevention and criminal justice measures to eliminate violence against women" (E/CN.15/1997/L.7/Rev.1), sponsored by Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Botswana, Brazil, Burundi, Canada, Chile, Colombia, Costa Rica, Croatia, Fiji, Finland, France, Gambia, Germany, Greece, Indonesia, Italy, Lesotho, Madagascar, Malawi, Malta, Paraguay, Poland, Portugal, Senegal, South Africa, Spain, Sweden, Thailand, Tunisia, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland and United States of America. For the text, see chapter I, section A, draft resolution III.

100. The draft resolution contained in E/CN.15/1997/L.6, which had originally been introduced under agenda item 7 (b), was withdrawn by its sponsor.

Chapter VII

UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

101. The Commission considered item 8 of its agenda at its 3rd and 4th meetings, on 29 April 1997. It had before it the following documents:

(a) Report of the Secretary-General on the administration of juvenile justice (E/CN.15/1997/13);

(b) Report of the Secretary-General on the use and application of United Nations standards and norms in crime prevention and criminal justice (E/CN.15/1997/14 and Add.1);

(c) Report of the Secretary-General on the development of United Nations minimum rules for the administration of criminal justice (E/CN.15/1997/15 and Add.1);

(d) Note by the Secretary-General on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/CN.15/1997/16 and Add.1);

(e) Report on the Expert Meeting on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, The Hague, Netherlands, 6-7 March 1997 (E/CN.15/1997/CRP.8);

(f) Draft manual on the implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/CN.15/1997/CRP.9);

(g) Draft international victims assistance handbook on the use and application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/CN.15/1997/CRP.11).

102. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division stated that the promotion of standards and norms in crime prevention and criminal justice involved, on a continuing basis, the application of existing universal instruments, which should be integrated into the reforms that were being undertaken in many States. The requests by Governments for technical assistance showed the growing need for training and advisory activities, which required the reinforcement of institutional collaborative action with appropriate United Nations entities, such as the office of the United Nations High Commissioner for Human Rights/Centre for Human Rights of the Secretariat, as well as with relevant intergovernmental and non-governmental organizations.

103. The Officer-in-Charge also indicated that the report of the Secretary-General on the use and application of United Nations standards and norms in crime prevention and criminal justice (E/CN.15/1997/14 and Add.1) reflected the latest developments with respect to the application of relevant instruments, providing suggestions to enhance their use, including proposals on how the Commission could effectively comply with its function of reviewing the information gathered on the results of the surveys. He mentioned that 1998 would mark the fiftieth anniversary of the Universal Declaration of Human Rights (General Assembly resolution 217 A (III)) and that the General Assembly and the Commission on Human Rights had requested the establishment of a framework for cooperation between institutions and organizations. He suggested that the Commission on Crime Prevention and Criminal Justice could consider ways and means of further contributing to respect for human

rights in the administration of justice by devoting, for example, one day of its seventh session to commemorating the event.

104. In the ensuing discussion, many participants stressed the importance of United Nations standards and norms in crime prevention and criminal justice, in particular the need for their effective and daily use and application at the national level.

105. Many participants were of the opinion that it would be desirable to place more emphasis on the maintenance and enhancement of existing resolutions and declarations, adding that it would be appropriate to include under that heading the provision of technical assistance to developing countries and countries with economies in transition.

106. The essential role of the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*,[130] was reaffirmed. Participants expressed their satisfaction about the availability of the *Compendium* in languages other than the official languages of the United Nations, emphasizing that efforts to widely disseminate it should be continued.

107. Several participants expressed their appreciation for the surveys on the use and application of United Nations standards and norms in crime prevention and criminal justice. They considered it appropriate to ensure further follow-up action by reiterating the request to those Governments that had not yet replied to the questionnaire to submit their replies. In that way, additional information could be analysed and reviewed by the Commission and disseminated through the United Nations Crime and Justice Information Network. It was pointed out that the need for new surveys on the implementation of the remaining standards and norms had been identified by the Commission at its fifth session. It was hoped that such extensive data collection might lead to the establishment of a well-functioning database.

108. Some participants suggested that it would be useful to undertake the elaboration of standards and norms on new forms of criminality such as money-laundering, corruption or computer-related crimes.

109. Several participants welcomed a proposal to establish an inter-sessional working group that would be the examining body of the use and application of United Nations standards and norms in crime prevention and criminal justice. However, one participant questioned the desirability of setting up such a working group.

110. In connection with the report of the Secretary-General on the administration of juvenile justice (E/CN.15/1997/13 and Add.1), which reflected information received from Governments regarding their juvenile justice systems, as well as their views on the elaboration of a programme of action on juvenile justice, many participants stressed the importance of the draft programme, as proposed by the expert group. It responded to an urgent need for assistance and cooperation in the application of international instruments in the field of juvenile justice, providing a framework for improved implementation of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (General Assembly resolution 40/33, annex), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (General Assembly resolution 45/112, annex) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex), in accordance with the Convention on the Rights of the Child (General Assembly resolution 44/25, annex) and as recommended on numerous occasions by the Committee on the Rights of the Child.

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[130] United Nations publication, Sales No. E.92.IV.1 and Corr.1.

111. Several speakers provided information on measures taken in pursuance of the international standards on juvenile justice, often with emphasis placed on educational programmes focused on the prevention of juvenile delinquency and the rehabilitation of juvenile offenders.

112. With respect to the report of the Secretary-General on the development of United Nations minimum rules for the administration of criminal justice (E/CN.15/1997/15 and Add.1), which summarized information obtained from and views expressed by Governments on the minimum rules, including views on the possibility of convening an expert group meeting to review the original text, several participants expressed their support for the idea of developing minimum rules for the administration of criminal justice, underlining the fact that they would contribute to the harmonization of national legislation. However, some representatives expressed their reservations about the rationale behind the proposed rules and about the procedures for their elaboration.

113. With reference to the note by the Secretary-General on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/CN.15/1997/16 and Add.1), which summarized views received from Governments on the preparation of a manual on the basis of a draft outline considered by the Commission at its fifth session, several participants stressed that the Declaration was considered to be a Magna Carta for victims. Reference was made to the expert group meetings on victims of crime and abuse of power in the international setting that had been held at Tulsa, United States of America, from 10 to 12 August 1996 and at The Hague from 5 to 7 March 1997. The Commission was asked to provide substantive contributions for a manual and a handbook that had been prepared as a result of those expert group meetings with a view to contributing to the development of policies, legislation and service programmes for the benefit of such victims.

114. In summarizing the debate, the Chairman stated that the majority of those who had spoken on item 8 had stressed not only the importance of the United Nations standards and norms in crime prevention and criminal justice, but also the need for their effective use and application. The essential role of the *Compendium* in improving the dissemination and application of those standards and norms was reaffirmed. The Chairman added that, on the issue of juvenile justice, support had been expressed for the reinforcement of educational programmes on the prevention of juvenile delinquency and for a strengthened, coordinated programme of technical cooperation.

ACTION TAKEN BY THE COMMISSION

115. At its 14th meeting, on 8 May 1997, the Commission approved for adoption by the Economic and Social Council, as orally amended, a revised draft resolution entitled "Victims of crime and abuse of power" (E/CN.15/1997/L.8/Rev.1), sponsored by Angola, Argentina, Austria, Botswana, Brazil, Burundi, Canada, Colombia, Croatia, Czech Republic, Denmark, Fiji, Finland, France, Germany, Greece, Italy, Lesotho, Malawi, Netherlands, Philippines, Portugal, Romania, Slovenia, South Africa, Spain, Sweden, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania and United States of America. For the text, see chapter I, section B, draft resolution V.

116. At its 15th meeting, on 9 May 1997, the Commission approved for adoption by the Economic and Social Council three revised draft resolutions, as orally amended. The first, entitled "Administration of juvenile justice" (E/CN.15/1997/L.4/Rev.1), was sponsored by Angola, Argentina, Austria, Belgium, Croatia, Fiji, Finland, France, Greece, Haiti, Netherlands, Portugal, Romania, Russian Federation, Saudi Arabia and Sweden. The second, entitled "United Nations standards and norms in crime prevention and criminal justice" (E/CN.15/1997/L.9/Rev.2), was sponsored by Angola, Argentina, Australia, Austria, Brazil, Canada, China,

Croatia, Fiji, Gambia, Greece, Lesotho, Madagascar, Portugal, Qatar, Senegal, Slovenia, Spain, Sweden, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland and United Republic of Tanzania. The third, entitled "Elements of responsible crime prevention: standards and norms" (E/CN.15/1997/L.14/Rev.1), was sponsored by Argentina, Australia, Austria, Belgium, Colombia, Croatia, Czech Republic, Denmark, Egypt, Fiji, Finland, Gambia, Germany, Greece, Italy, Lesotho, Netherlands, Philippines, Poland, Portugal, Romania, Senegal, Slovakia, Slovenia, Spain, Sweden, Tunisia, Turkey and United Republic of Tanzania. For the texts, see chapter I, section B, draft resolutions IV, VI and VII.

Chapter VIII

TECHNICAL COOPERATION, INCLUDING RESOURCE MOBILIZATION, AND COORDINATION OF ACTIVITIES

117. The Commission considered item 9 of its agenda at its 10th and 11th meetings, on 6 and 7 May 1997. It had before it the following documents:

(a) Report of the Secretary-General on technical cooperation and coordination of activities (E/CN.15/1997/17);

(b) Report of the Secretary-General on activities of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network (E/CN.15/1997/18); and

(c) Poverty eradication (E/CN.15/1997/CRP.7).

118. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division noted that the capacity of the Programme to act as a focal point and catalyst for technical cooperation in crime prevention and criminal justice had continued to grow. He drew the attention of the Commission to the compendium on technical cooperation projects, which summarized 26 new project proposals and which was the result of the informal consultative group on resource mobilization. The project proposals represented the ideas, hope and commitment of criminal justice professionals from many countries. Each of them had emerged from a desire to improve some aspect of the administration of criminal justice. They were seeking to either build new institutions, reform legislation, improve the delivery of police or correctional services, establish a better process for dealing with juveniles or enable citizens to act strongly against corruption, trafficking or money-laundering.

119. In the preceding year, the pace of technical assistance undertaken by the Crime Prevention and Criminal Justice Division had also increased significantly. More than 20 needs assessment and fact-finding missions had been carried out in 1996 alone. Training activities had continued with the development of curricula and training material, workshops, seminars and expert meetings. Advisory services had been provided on substantive, legal and administrative issues and information had been exchanged and disseminated.

120. With respect to the issue of poverty eradication, the Officer-in-Charge drew the attention of the Commission to the results of the coordination segment of the session of the Economic and Social Council for 1996 as reflected in the report of the Council to the General Assembly (A/51/3 (Part I), chap. III). In that report, the Commission on Crime Prevention and Criminal Justice had been invited to provide appropriate inputs into the consideration of poverty-related issues by the Commission for Social Development, notably in its discussion of social integration and participation of all people, scheduled for 1998, and into other relevant functional commissions as appropriate (A/51/3 (Part I), para. 48).

121. Many participants commended the Division for its efforts to strengthen the technical cooperation and advisory services in the preceding year and in elaborating a number of project proposals contained in the compendium on technical assistance projects. The growing recognition of the United Nations Crime Prevention and Criminal Justice Programme was noted.

122. Some participants noted that the technical assistance provided would not have been possible without the continued funding of two interregional adviser posts under section 20 of the regular budget of the

United Nations. It would also not have been possible without the continuing financial and substantive support of a number of Member States that had provided scholarships, associate experts and experienced experts.

123. It was noted that, in undertaking its technical cooperation activities, the Division had contributed to the implementation of relevant resolutions of the Commission on Crime Prevention and Criminal Justice and the many norms and standards in crime prevention and criminal justice that had been developed within the Programme over the years, including the United Nations Declaration on Crime and Public Security.

124. During the discussion, several participants underlined the need to regard technical assistance in the field of crime prevention and criminal justice as an integral part of the development process. They were of the view that technical assistance should not be construed as simply assistance from developed countries to developing countries for humanitarian reasons; the provision of such assistance, however, should be regarded as the common responsibility of the international community as part of its efforts to promote crime prevention and criminal justice. Several participants stressed that cooperation should be, first of all, oriented towards the needs of developing countries. At the same time, the valuable experience acquired by a number of developing countries in criminal justice reform should be fully taken into account. Successful projects would have a multiplier effect, when planned and implemented well with the full cooperation of the Government concerned.

125. A few participants said that the Commission was a privileged forum in which diverse views and experiences of all States could be considered on an equal basis. They were of the opinion that recommendations and assistance measures that could affect the sovereignty of Member States should be avoided.

126. It was also noted that many developing countries and countries with economies in transition did not have sufficient resources to respond to the problems of crime prevention and criminal justice on their own. Assistance from other countries was viewed as vital. Several participants expressed gratitude to donors for their readiness to help and for their assistance. They also commended the Programme for providing support in the form of, for example, the prison reform project in Haiti, assistance in criminal justice reform in Bosnia and Herzegovina and the subregional training workshop for trainers of the correctional services of the five central Asian republics. They called upon the international community to continue its support in order to enable successful completion of their efforts of reconstructing and reforming the criminal justice system to be successfully completed. Several representatives expressed their hope that the Programme would be able to follow up on initial needs assessments with concrete assistance as soon as possible.

127. Other representatives described the types of assistance provided by their countries, both in direct support of activities carried out through the Programme and bilaterally. A number of representatives announced the financial commitments of their Governments to projects contained in the compendium of technical assistance projects and invited other Governments to also respond positively to the projects listed in it.

128. Some participants stressed the importance of criminal justice as an element of peacekeeping and peace-building activities. They mentioned that, from the beginning of any peacekeeping operation, the creation or reconstruction of a functioning judicial and legal system should be envisaged, in order to secure public safety and prevent impunity.

129. One participant suggested that, with a view to combating impunity, encouraging reconciliation and facilitating the return to peace, the Commission should ensure follow-up to the conclusions of the International Commission of Inquiry in Burundi. Such follow-up could consist of either establishing an international criminal tribunal, empowered to investigate crimes against humanity, or extending the territorial mandate of the Arusha tribunal (International Tribunal for Rwanda).

130. Some participants noted that the demands placed on the Programme had been expanding rapidly. What was needed more than ever was funding for the many worthwhile projects elaborated by the Secretariat. Several participants noted with satisfaction the creation of and the first results achieved by the informal consultative group on resource mobilization. Those participants supported its proposals and expressed the hope that they would effectively reduce the gap between the scope of activities of the Programme and the limited resources available. They called for the Programme to continue its mandated functions involving resource mobilization and to exercise them more vigorously.

131. Several participants expressed the opinion that it was financially impossible to comply with all mandates and requests for technical cooperation. It was suggested that areas of assistance should be prioritized in line with the policy recommendations of the Commission. Several participants noted that, in any case, apart from additional extrabudgetary resources, the resource base of the Programme in the regular budget needed further strengthening.

132. Cooperation and coordination of activities with other entities within and outside the United Nations system in this area was considered to be of considerable relevance. Many participants noted that efforts had been increased to coordinate activities with them, in order to avoid possible overlaps and to increase efficiency. The most important development in that respect had been the improved cooperation of the Crime Prevention and Criminal Justice Division with the United Nations International Drug Control Programme and the United Nations Development Programme, which was described in greater detail by the observers for both of those entities. The importance of the first informal meeting of the bureau of the Commission with that of the Commission on Narcotic Drugs was emphasized. The participants were of the opinion that such meetings would improve coordination of the work of the two commissions, especially in relation to the upcoming special session of the General Assembly on illicit drug trafficking.

133. The Commission heard a summary statement on the work of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network. In addition, the observers for a number of institutes provided updates of their most recent joint projects and activities. Most institutes did not have adequate resources at their disposal. In particular, the financial situation of the African Institute for the Prevention of Crime and the Treatment of Offenders had further deteriorated and was in urgent need of attention. Many participants stressed the importance of the institutes, commended their work and their efforts to broaden their partnerships and called for continued support of their work.

134. Several participants stressed the need to further improve the coordination of the activities of the institutes comprising the Programme network and the work carried out by the Division. One participant noted that for the Division to carry out that task at least one staff member should be dedicated full time to such coordination. It was also noted that the report of the Secretary-General on the activities of those institutes (E/CN.15/1997/18) was merely descriptive, containing only a summary of the work carried out by each member of the Programme network, and that it lacked an analysis of the information provided. In order for the Commission to maximize the potential of the institutes and to better coordinate their contributions to the Programme, it was proposed that the reporting period should be every two years and that the focus should be on the planned activities to be conducted by each institute.

135. The interregional advisers for crime prevention and criminal justice commented on their experiences in providing technical assistance and advisory services, noting the crucial juncture reached and stressing the urgent need to fund the many operational projects that had been elaborated and included in the compendium of technical cooperation projects, contained in the background document entitled "Technical Assistance in Crime Prevention and Criminal Justice: Why, How and When?".

136. The Chairman, in summarizing the discussion, mentioned the growing capacity of the Programme to provide technical cooperation in crime prevention and criminal justice, the need to exercise resource mobilization more vigorously and the importance of coordination of activities with other entities.

ACTION TAKEN BY THE COMMISSION

137. At its 14th meeting, on 8 May 1997, the Commission recommended for adoption by the Economic and Social Council two revised draft resolutions, as orally amended. The first, entitled "Implementation of the United Nations Declaration on Crime and Public Security" (E/CN.15/1997/L.10/Rev.2), was sponsored by Angola, Argentina, Australia, Canada, Egypt, Fiji, Kuwait, Nigeria, Poland, Romania, Russian Federation, Spain, Turkey and United States of America. The second, entitled "Technical cooperation and interregional advisory services in crime prevention and criminal justice" (E/CN.15/1997/L.11/Rev.1), was sponsored by Angola, Argentina, Botswana, Brazil, Colombia, Ecuador, Fiji, France, Gambia, Guatemala, Haiti, Morocco, Nigeria, Paraguay, Portugal, Qatar, Senegal and Venezuela. For the texts, see chapter I, section B, resolutionsVIII and IX.

138. At its 15th meeting, on 9 May 1997, the Commission approved for adoption by the Economic and Social Council, as orally amended, a revised draft resolution entitled "International cooperation for the improvement of prison conditions" (E/CN.15/1997/L.21/Rev.1), sponsored by Angola, Burundi, Costa Rica, Fiji, Gambia, Lesotho, Madagascar, Malawi, Malta, South Africa, Uganda, United Republic of Tanzania and Zimbabwe. For the text, see chapter I, section B, resolution X.

139. Following informal consultations on the text of the revised draft resolution contained in E/CN.15/1997/L.21/Rev.1, the draft resolutions contained in E/CN.15/1997/L.13 and E/CN.15/1997/L.18 were withdrawn by their sponsors, as their substance had been reflected in the new text.

Chapter IX

STRATEGIC MANAGEMENT AND PROGRAMME QUESTIONS

140. The Commission considered item 10 of its agenda at its 12th and 13th meetings, on 7 and 8 May 1997. It had before it the following documents:

(a) Report of the Secretary-General on strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme (E/CN.15/1997/19);

(b) Note by the Secretary-General on the proposed programme of work in crime prevention and criminal justice for the biennium 1998-1999 (E/CN.15/1997/20);

(c) Activities undertaken and results achieved by the informal consultative group on resource mobilization: report by the Chairman of the informal consultative group (E/CN.15/1997/CRP.1);

(d) Report of the bureau of the Commission on Crime Prevention and Criminal Justice at its fifth session on the inter-sessional consultations held in 1996 and 1997 (E/CN.15/1997/CRP.2);

(e) Strategic management: consolidated text of statements provided by Member States on information required in accordance with resolutions 1/1, 4/3 and 5/3 of the Commission on Crime Prevention and Criminal Justice (E/CN.15/1997/CRP.13 and Add.1).

141. The Officer-in-Charge of the Crime Prevention and Criminal Justice Division outlined the relevant mandates and action to be taken by the Commission in relation to the review of programme of work for the biennium 1998-1999, the mobilization of resources, the streamlining of the agenda of the Commission and the reporting obligations of the Secretariat, and criteria to be applied in measuring the impact of the activities of the Programme.

142. The report of the Secretary-General on strategic management dealt with the inter-sessional activities of both the Commission and the Secretariat. Those activities had also been referred to by the outgoing Chairman of the Commission, who, at the opening meeting of its sixth session, had drawn its attention to the report of the bureau of the Commission at its fifth session and to the recommendations of that bureau, which were subsequently endorsed by the Commission.

143. Many representatives supported the view expressed by the Director-General of the United Nations Office at Vienna in his opening statement that the new approach to the strategic management of the Programme had begun to bear fruit. Many noted that, in accordance with Commission resolution 5/3, the bureau had an active role to play, not only by streamlining reporting procedures and requirements, including the number and length of documents, but also by exercising restraint on repetitive pronouncements of principles or arguments, by focusing on required effective action and by limiting the number of requests for further reports and information. The representatives fully supported the proposals, contained in the report of the Secretary-General and the report of the bureau, to use discretion in determining the necessity, form and length of such reports.

144. Another important innovation resulting from Commission resolution 5/3 was the regularization of the inter-sessional consultations, which were proving to be an important element in the strategic management of the Programme by the Commission. By facilitating the organization of the formal sessions, the consultations

permitted the most effective use of time at the formal session allocated to substantive matters. They had also contributed to advancing substantive preparations, thus facilitating discussion and decision-making at the formal sessions.

145. It was noted with satisfaction that, for the sixth session, Member States had complied with the requirement that strategic management statements should accompany draft resolutions. A statement had been prepared for each draft resolution, which included a detailed description of the activities and tasks involved, a timetable for their execution, the name of the executing agency, the extent to which the activity might have already been carried out by some other agency, the available funding and the anticipated outcome. Most of the statements had been prepared with the assistance of the Secretariat. They permitted more coordination and effective implementation of Commission resolutions. The decision to have draft resolutions submitted and circulated one month prior to each session of the Commission had proved useful. There was agreement that the practice should be maintained.

146. The discussion also focused on the need for efficient and effective use of existing resources, in line with agreed priorities and work cycles. There was widespread appreciation of the quality of the work of the Secretariat, such as its preparation of the documentation for the sixth session of the Commission, and of the progress made on ongoing and emerging issues.

147. Participants also emphasized the importance of the work that had been carried out by the informal consultative group on resource mobilization. They noted that an important beginning had been made and that the Commission had embarked upon a constructive course. There was widespread agreement on the proposals made at the inter-sessional consultations of the bureau and by the consultative Group and on the conclusions contained in the resulting documentation under agenda item 10. However, concern was expressed over the continuing disparity between the number and breadth of the mandates and the resources available to meet them. Several participants noted that Member States had continued to request more and more action without indicating where the necessary resources would come from.

148. Several participants referred to the report of the Secretary-General (E/CN.15/1997/19) and underscored the discrepancy between the mandates of the Programme and the "minuscule proportions" of its resources, in spite of it being one of the priority programmes of the United Nations. They agreed that such a discrepancy severely limited the impact of the Programme on crime prevention and criminal justice and called into question the seriousness of the commitment of Member States in that area of work of the United Nations. The situation might have a negative impact on the staff of the Division, who, in an effort to fulfil all the mandates, might not be able to meet all deadlines and, therefore, might not achieve the appropriate results.

149. The proposed programme of work in crime prevention and criminal justice for the biennium 1998-1999, contained in the note by the Secretary-General (E/CN.15/1997/20), illustrated even more clearly the discrepancy. Several participants expressed the view that the workload foreseen in the proposed programme of work, even though it reflected existing mandates, was far too heavy to be carried out within the resources provided. It was suggested that a small informal group, consisting of members of the Commission, should be set up to undertake a review of the Programme's mandates and resources with a view to establishing a more realistic relationship between them and should submit a report to the Commission.

150. Most participants expressed their support for the way the proposed programme of work had been presented. It was considered to be well-structured, reflecting the major objectives of the medium-term plan, but perhaps too far-reaching compared with the resources available to the Secretariat.

151. As for possible solutions, one participant suggested considering the deletion of certain items from the proposed programme of work and recommended funding other items not through the regular budget of the United Nations but only with extrabudgetary funds. That proposal was discussed but not agreed upon. Another participant expressed the opinion that the solution should be based on identifying new resources and prioritizing certain activities instead of cutting activities. The Commission was invited to consider permitting the Division to streamline reporting obligations in line with the suggestions of the bureau, both in connection with the Commission documentation and in relation to the preparations for the Tenth Congress. Savings achieved by such measures might be used to reinforce the operational capacity of the Programme. Furthermore, some activities that had been proposed for funding through the regular budget, or from a combination of both regular budget and extrabudgetary funds, might be funded entirely from the latter. It was pointed out that it was important to support with regular budget resources activities to be funded by extrabudgetary contributions, which could not be carried out without using staff time. However, the implementation of project activities could only be secured if sufficient extrabudgetary resources were made available to the Programme. While it was noted that budgetary and administrative matters were for the Committee for Programme and Coordination, the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee of the General Assembly, most delegations felt that the most desirable course of action would be to follow an established plan of work, and to place the agenda items of the Commission on a cycle other than an annual cycle.

152. The view was expressed that the Commission should address the issue of prioritization of its work as well as the programme activities as stipulated in the note by the Secretary-General on the proposed programme of work in crime prevention and criminal justice (E/CN.15/1997/20), with a view to ensuring the most efficient use of resources. It was suggested that the agenda items of each session of the Commission should concentrate on a main theme. Organized transnational crime was suggested to be the theme for the seventh session.

153. The Division should continue its resource mobilization efforts, taking into account the recommendations and requests contained in the report of the chairman of the informal consultative group on resource mobilization.

154. There was a lengthy discussion on possible ways of shifting resources from parliamentary services to operational activities, thereby increasing the share of extrabudgetary resources for technical assistance programmes. By way of example, some participants proposed that the resources allocated to the regional preparatory meetings for the Tenth Congress might be redeployed and used for technical assistance activities. Others were of the view that the regional preparatory meetings represented a good occasion for States, particularly developing countries, to meet and exchange views and information at the regional level, thereby finding common positions and mobilizing resources. The view was expressed that such meetings had been authorized by the General Assembly in its resolution 46/152, annex, and that it was up to the Assembly to decide whether such meetings should be discontinued.

155. In the course of this discussion on item 10, one participant asked for clarification on the redeployment made of savings from cuts to administration and the servicing of meetings in the United Nations Office at Vienna towards substantive programmes. The Director of the Division for Administrative and Common Services addressed the Commission on that matter. He said that, in accordance with the process of reform started by the Secretary-General, the cost of administrative services should be reduced from 38 per cent to 25 per cent of the budget by the year 2001.

156. The Chairman, in summarizing the discussion, recalled that the bureau of the sixth session of the Commission had continued the process initiated by the previous bureaux in streamlining the work of the Commission and in providing guidance in the implementation of the activities of the Programme and that he counted on the support of the Commission in strengthening the Programme. The Chairman also expressed his

satisfaction with the fact that, for the first time, the Commission had had an in-depth discussion on strategic management, during which the proposed programme of work, together with the implications of the proposed draft resolutions, had been thoroughly evaluated.

ACTION TAKEN BY THE COMMISSION

157. The Commission, at its 1st meeting, on 28 April 1997, endorsed four recommendations of the bureau of its fifth session on streamlining its agenda and its organization of work. That action was taken to ensure the application of those recommendations with immediate effect.

158. At its 15th meeting, on 9 May 1997, the Commission adopted, as orally amended, a draft resolution entitled "Strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme" (E/CN.15/1997/L.3), sponsored by Angola, Argentina, Austria, Botswana, Colombia, Croatia, Finland, Japan, Kuwait, Netherlands, Nigeria, Qatar, Republic of Korea, Saudi Arabia, Slovenia and Tunisia. For the text, see chapter I, section D, resolution 6/1.

Chapter X

PROVISIONAL AGENDA FOR THE SEVENTH SESSION OF THE COMMISSION

159. The Commission considered agenda item 11, entitled "Provisional agenda for the seventh session of the Commission", at its 16th meeting, on 9 May 1997. For its consideration of the item, the Commission had before it a draft decision submitted by the Chairman entitled "Report of the Commission on Crime Prevention and Criminal Justice on its sixth session, provisional agenda and documentation for its seventh session and organization of work and themes for its future sessions" (E/CN.15/1997/L.23). A representative of the Secretariat made a statement on the programme budget implications of the draft decision. For the text of that statement, see annex II.

160. Following statements by the representatives of the United States of America, France, Islamic Republic of Iran, Russian Federation, Canada, Gambia, Japan, Colombia and Argentina and the observers for Turkey, Australia and Saudi Arabia, as well as the Officer-in-Charge of the Crime Prevention and Criminal Justice Division, the Commission approved the draft decision, as orally amended, for adoption by the Economic and Social Council. For the text of the draft resolution, see chapter I, section C.

Chapter XI

ADOPTION OF THE REPORT OF THE COMMISSION ON ITS SIXTH SESSION

161. At its 16th meeting, on 9 May 1997, the Commission adopted by consensus the report on its sixth session (E/CN.15/1996/L.1 and Add.1-9), as orally amended.

162. The Deputy to the Director-General of the United Nations Office at Vienna made a statement on behalf of the Director-General. Statements were also made by the representatives of Colombia, Paraguay and Sweden and the observers for Australia and Qatar.

Chapter XII

ORGANIZATION OF THE SESSION

A. Opening and duration of the session

163. The Commission on Crime Prevention and Criminal Justice held its sixth session in Vienna from 28 April to 9 May 1997. The Commission held 16 plenary meetings. The Committee of the Whole and the three working groups approved by the Economic and Social Council held their meetings parallel with the plenary.

164. The sixth session of the Commission on Crime Prevention and Criminal Justice was opened by the outgoing Chairman of the fifth session, Tadanori Inomata (Japan), who gave an assessment of the work accomplished during the inter-sessional period. Among the most salient issues emerging from that period were the work of the informal consultative group on resource mobilization and the need for an adequate resource base for the United Nations Crime Prevention and Criminal Justice Programme; improved coordination with the United Nations International Drug Control Programme through a joint meeting of the bureaux of the Commission on Crime Prevention and Criminal Justice and of the Commission on Narcotic Drugs and the launching of a joint global project on money-laundering; the level of adherence to the agreed procedures for the submission of draft proposals; the possible establishment of a troika of past and present chairmen of the Commission on Crime Prevention and Criminal Justice and the chairman of the regional group nominating the next Chairman of the Commission to ensure continuity during the inter-sessional periods; and the proposed measures for streamlining the methods of work of the Commission on Crime Prevention and Criminal Justice and, in particular, reducing the number of resolutions and agenda items. With regard to the latter, the participants of the last inter-sessional consultations had agreed that four proposals by the bureau of the Commission on Crime Prevention and Criminal Justice should be adopted at the opening of the sixth session if Member States so agreed. With regard to the establishment of a troika some reservations were expressed. Member States agreed to adopt the other proposals. The proposals adopted are reflected in paragraph 4 of Commission resolution 6/1.

B. Attendance

165. The sixth session was attended by representatives of 39 States members of the Commission and by observers for 64 other States, 10 bodies of the United Nations, 3 specialized agencies, 9 institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, 10 inter-governmental organizations and 34 non-governmental organizations. A list of participants is given in annex I to the present report.

C. Election of officers

166. At its 1st meeting, on 28 April 1997, the Commission elected the following officers by acclamation:

Chairman: Mohamed El Fadhel Khelil (Tunisia)

Vice-Chairmen: Elias Jassan (Argentina)
Luigi Augusto Lauriola (Italy)
Dariusz Manczyk (Poland)

Rapporteur: Amir Hossein Zamaninia (Islamic Republic of Iran)

167. The elected officers constituted the bureau of the Commission, which met daily during the session to consider matters relating to the organization of work and to strategic management.

168. Following his election, the Chairman of the sixth session, Mohamed El Fadhel Khelil (Tunisia), underlined the importance of the recommendations of the bureau, which met several times between sessions of the Commission in order to assist the Commission in its implementation of the strategic management of the United Nations Crime Prevention and Criminal Justice Programme. He made an appeal to delegations to start their consultations on the various draft proposals, particularly on the question of the elaboration of an international convention on organized transnational crime, the examination of which had been requested by the General Assembly in its resolution 51/120.

169. The Director-General of the United Nations Office at Vienna noted the priority status of the Programme in the new medium-term plan and the session's importance at a time when efforts to reform the United Nations were approaching maturity. He stressed the adverse effect of globalization of crime, regretting the limited ability of the Programme to forge ahead in meeting the challenges as a result of the negative impact of the financial crisis of the Organization. The Director-General also referred to the action arising out of the resolutions adopted by the General Assembly at its fifty-first session, especially the adoption of the United Nations Declaration on Crime and Public Security and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, the movement towards the elaboration of an international convention against organized transnational crime, the progress made in the area of technical cooperation and resource mobilization, the improvements in the coordination of activities with other entities, the preparations for the Tenth Congress and the tangible results of the new approach to the strategic management of the Programme.

D. Agenda and organization of work

170. At its 1st meeting, on 28 April 1997, the Commission adopted by consensus its provisional agenda (E/CN.15/1997/1), which had been agreed on by the Commission at its fifth session and approved by the Council in its decision 1996/245. The agenda was as follows:

1. Election of officers.

2. Adoption of the agenda and organization of work.

3. Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

4. Promotion and maintenance of the rule of law and good governance; action against corruption.

5. Criminal justice reform and strengthening of legal institutions:

    (a) Measures to regulate firearms;

    (b) International cooperation and assistance in the management of the criminal justice system: computerization of criminal justice operations and the development, analysis and policy use of crime and criminal justice information.

6. International cooperation in combating transnational crime:

    (a) Implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime;

    (b) Question of the elaboration of an international convention against organized transnational crime;

    (c) Extradition and international cooperation in criminal matters;

    (d) Smuggling of illegal migrants;

    (e) Illicit trafficking in motor vehicles;

    (f) The role of criminal law in the protection of the environment.

7. Strategies for crime prevention and control, particularly in urban areas and in the context of public security:

    (a) Elimination of violence against women;

    (b) Measures to prevent illicit trafficking in children.

8. Use and application of United Nations standards and norms in crime prevention and criminal justice.

9. Technical cooperation, including resource mobilization, and coordination of activities:

    (a) Technical cooperation;

    (b) Resource mobilization;

    (c) Cooperation with other United Nations bodies and other entities.

10. Strategic management and programme questions:

    (a) Strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme;

    (b) Programme questions.

11. Provisional agenda for the seventh session of the Commission.

12. Adoption of the report of the Commission on its sixth session.

171. At the same meeting, the Commission adopted the organization of work for its sixth session (E/CN.15/1997/1/Add.1), which included one meeting each for the working group on the elimination of violence against women and the working group on United Nations standards and norms in crime prevention and criminal justice, four meetings for the working group on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime and six meetings for the Committee of the Whole. The reports of the first two working groups are reproduced in annex III to the present report. The report of the third working group is contained in annex IV to draft resolution I, which is presented in chapter I, section A, above.

E. Documentation

172. The documents before the Commission are listed in annex IV to the present report.

Annex I

ATTENDANCE

Members*

Angola: Fidelino Loy de Jesus Figueiredo, Agostinho Domingos, António Cicero de Melo Dias Dos Santos, Joao Baptista da Costa, Joao António Milekamene, Jorg de Mendonca Pereira, Valmiro da Cruz Verdades, Kwetutinina Lunga Diyezwa

Argentina: Elías Jassan, Andrés Pesci Bourel, Elisa María Carrio, Nilda Garre, Carlos Ernesto Soria, Mariano Ciafardini, Juan J. Iriarte Villanueva, Eugenio María Curia, Esteban Marino, Marcelo Baca Castex, Ricardo Massot

Austria: Ferdinand Mayrhofer-Grünbühel, Franz Cede, Christian Strohal, Margit Friedrich, Franz Brenner, Ulrike Kathrein, Johannes Schachinger, Susanne Keppler-Schlesinger, Irene Gartner, Fritz Zeder, Christine Stromberger

Belarus: A. Bazhelka, Valyantsin Fisenka, Valeriy Zdanovich, Igar Shaladonau

Bolivia: René Blattman, Enrique Meyer Medina, Bernardo Wayar Caballero, Iván Lima, María Lourdes Espinoza, Isabel Dalenz de Vidaurre

Burundi: Marc Birihanyuma

Canada: Peter F. Walker, Philip Mackinnon, John T. Holmes, Donald K. Piragoff, Lucie Angers, Denyse Dufresne, Jamie Deacon, James Hayes, Toni Frey-Marr, Maria Spencer, Donald Cochrane, Tony Dittenhofer

China: Zhang Geng, Li Changhe, Wu Yanshi, Guo Jianan, Duan Jielong, Cheng Renhua, Jiang Qin, Zhang Yue, Huang Shaoping, Bai Ping, Zhang Yi

Colombia: Armando Morales Ocampo, Fabiola Castillo Reina, Alberto Rueda Montenegro, Enrique Celis

Costa Rica: Juan Diego Castro Fernández, Stella Aviram Neuman, Rosa María Chinchilla Chaves

Egypt: Mostafa El-Feki, Iskandar Ghatas, Sanaa Sayed Ahmed Khalil, Ahmed Galal Ez-Eldin, Hisham Ahmed Fouad Sorour

Fiji: Savenaca Tulvaga

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* Zambia was not represented at the session.

France: Jean-Michel Dasque, Daniel Labrosse, Eric Danon, Bruno Guerquin, Michel Debacq, Joël Sollier, Pierre-André Lageze, Michel Gauthier, Georges Samuel, Michel Quille, René Bregeon, Michel Pellerin, Tristan Gervais de Lafond, Lionel Benaiche, Isabelle Couzi, Corinne Giannone, Charley Causeret

Gambia: V. Wright

Indonesia: Muladi, Sumaryo Suryokusumo, I. Gde Djelantik, Soeparman, Fred Sumampow, I Gusti A. Wesaka Puja, Lasro Simbolon

Iran (Islamic Republic of): Hossein Karimi, Mohammad S. Amirkhizi, Mohammad Hossein Fadaeifard, Hamid Yazdi, Mahmoud Madi Soltani, Amir Hossein Zamaninia, Ali M. Mousavi, Bahram Badiozzamani

Italy: Giovanni Maria Flick, Alberto Indelicato, Renato Castellani, Luigi Augusto Lauriola, Saba D'Elia, Vittorio Mele, Giorgio Lattanzi, Gioacchino Polimeni, Franca Zacco, Piercamillo Davigo, Domenico Carcano, Gerardo Dominijanni, Stefania Merlo, Angelo Ciancarella, Antonio Caselli, Bruno Frattasi, Pina Lamanna, Carmine Corvo, Gaetano Piccolella, Giuseppe Fera, Antonio Lo Monaco

Jamaica: Owen Clunie

Japan: Yuki Furuta, Nobuaki Ito, Mikinao Kitada, Jiro Ono, Hiroshi Azuma, Goro Aoki, Kuniko Ozaki, Hirokazu Urata, Kaoru Misawa, Hideaki Mori, Noriaki Kojima, Akira Ando, Kikuko Kato, Kumiko Mita

Lesotho: Raphael R. Kali, M.L. Lehohla, T. Nomngecongo, M.N. Mahao, J.L. Khalema, L.L. Thetsane, L. Moteetee, M. Motanyane, J.S. Malewa

Madagascar: Victor Ramanitra

Malawi: James B. Kalaile

Mexico: Roberta Lajous, Miguel Ruíz Cabañas, Mercedes Felicitas Ruiz Zapata, Victor Arriaga Weiss, Irene Mendieta Rojas, Enrique Zepeda, María de Luz Lima Malvido

Netherlands: Winnie Sorgdrager, Hans A.F.M. Förster, Joris Demmink, Jan Van Dijk, Wouter F.G. Meurs, Richard Scherpenzeel, Thijs P. Van der Heijden, Neline Koornneef, Sacha Crijns, H.G. Nilsson, N. Hulsbosch

Nicaragua: Alberto-José Altamirano-Lacayo, Suyapa I. Padilla

Nigeria: Sulaiman Dahiru, A.A. Yadam, M.I. Omuso, M.A. Musa

Pakistan: Masuma Hasan, Mushtaq Ali Shab, Zaheer Pervaiz Khan

Paraguay: Arnaldo Giménez Cabral, Maria Cristina Acosta Alvarez, Ana Isabel Rodriguez Baez, Catalina Alcaraz Cañiza

Philippines: José A. Zaide Jr., Celia S. Leones, Victoria S. Bataclan, Purita M. Deynata, Virtus Gil, Faith Bautista

Poland: Wojciech Lamentowicz, Jerzy M. Nowak, Dariusz Lucjan Lukasik, Andrezej Kowesko, Ryszard Rychlik, Jan Jasinski, Bozena Kowalzyk, Jaroslaw Strejczek, Mariusz Skowronski

Republic of Korea: Ho-Jin Lee, In-Ho Kim, Ho-Cheol Lee, Dong-Eun Chung, Yongwoo Kwon, Woong-Soon Lim

Russian Federation: Alexander G. Khodakov, Igor N. Kozhevnikov, Oleg M. Sokolov, Vladimir Tarabrin, Vladimir P. Tarasov, Victor S. Dolmatov, Natalya Y. Goltsova, Yuri V. Golik, Vyacheslav G. Krasyukov, Anatoliy G. Radatchinski, Alexander S. Gappoev, Irina V. Tkachova

Sudan: Abdelrahman Ibrahim Elkhalifa, Kureng Akuei Pac

Swaziland: Nonhlanhla P. Tsabedze, Khisimusi Stanley Ndlovu

Sweden: Klas Bergenstrand, Björn Skala, Örjan Landelius, Louise Heckscher, Eva Nyhult, Göran Melander, Mikael Johansson, Marie Sjölander, Anette Elmqvist

Thailand: Suchart Traiprasit, Trakul Winitnaiyapak, Charncaho Chaiyanukit, Saravut Benjakul, Rutt Chumdermpadetsuk

Tunisia: Mohamed El Fadhel Khelil, Taoufik Jabeur, Mohamed Lejmi, Slaheddine Dhambri, Tahar Fellous, Béchir Alaya, Emna Lazoughli

Ukraine: V. Maljarenko, M. Makarewych, I. Kuleba, M. Melenevskij

United States of America: Jonathan Winer, John B. Ritch III, Enrique Perez, Kenneth Harris, Joseph Snyder, Beverly Z. Zweiben, Thomas A. Johnson, Drew Arena, Katherine Garrett, Michael Langan, Ashley Oliver, John Patterson, Adrienne Stefan, Henry Ensher, John Kellogg

States Members of the United Nations represented by observers

Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Chile, Croatia, Cuba, Czech Republic, Cyprus, Democratic People's Republic of Korea, Denmark, Ecuador, Estonia, Finland, Gabon, Germany, Greece, Guatemala, Guinea, Haiti, Hungary, India, Ireland, Iraq, Israel, Kazakstan, Kuwait, Kyrgyzstan, Lebanon, Libyan Arab Jamahirya, Malaysia, Malta, Morocco, Norway, Panama, Peru, Portugal, Qatar, Romania, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Spain, Syrian Arab Republic, Turkey, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Zimbabwe

Non-member States represented by observers

Holy See, Switzerland

United Nations

Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights, United Nations Development Programme, Committee for Programme and Coordination, Department of Peacekeeping Operations, Division for the Advancement of Women of the Department for Policy Coordination and Sustainable Development, Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, office of the United Nations High Commissioner for Refugees, United Nations International Drug Control Programme, United Nations International Research and Training Institute for the Advancement of Women, United Nations Interregional Crime and Justice Research Institute

Affiliated regional institutes and associated institutes

Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, Latin American Institute for the Prevention of Crime and the Treatment of Offenders, European Institute for Crime Prevention and Control, affiliated with the United Nations, African Institute for the Prevention of Crime and the Treatment of Offenders, Naif Arab Academy for Security Sciences, International Centre for Criminal Law Reform and Criminal Justice Policy, International Scientific and Professional Advisory Council, Raoul Wallenberg Institute, National Institute of Justice

Specialized agencies

International Labour Organization, Food and Agriculture Organization of the United Nations, World Health Organization

Intergovernmental organizations represented by observers

Asian-African Legal Consultative Committee, Commonwealth Secretariat, Council of Arab Ministers of the Interior, Council of Europe, European Commission, Financial Action Task Force on Money-laundering, International Criminal Police Organization, International Organization for Migration, League of Arab States, Organisation for Economic Co-operation and Development

Non-governmental organizations

General consultative status:	International Abolitionist Federation, International Council of Women, International Federation of Business and Professional Women, International Save the Children Alliance, Soroptimist International, World Confederation of Labour, Zonta International

Special consultative status:	Amnesty International, Asia Crime Prevention Foundation, Baha'i International Community, Caritas Internationalis (International Confederation of Catholic Charities), Centro Nazionale di Prevenzione e Difesa Sociale, Coalition against Trafficking in Women, Defense for Children International Movement, Friends World Committee for Consultation, Howard League for Penal Reform, International Association of Judges, International Association of Penal Law, International Bar Association, International Centre of Sociological, Penal and Penitentiary Research and Studies, International Commission of Jurists, International Council of Environmental Law, International Federation of University Women, International Institute of Humanitarian Law, International League for Human Rights, International Society of Social Defense, Mediterranean Women's Studies Institute, Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs) (International Movement of Catholic Students), Salvation Army, World Association of Girl Guides and Girl Scouts, World Leisure and Recreation Association, World Organization of the Scout Movement (World Scout Bureau), World Society of Victimology
Roster:	National Rifle Association

Annex II

STATEMENT ON THE PROGRAMME BUDGET IMPLICATIONS OF THE DRAFT DECISION

1. Under the terms of the draft decision (E/CN.15/1997/L.23), subparagraph (c), there would be 12 additional meetings, two per day for six working days, during the seventh session of the Commission on Crime Prevention and Criminal Justice in 1998, with interpretation from and into the six official languages of the United Nations for informal consultations on draft proposals and for meetings of open-ended working groups. Any documentation requirements would be covered under the plenary meeting of the seventh session of the Commission.

2. The conference servicing requirements for the above meetings are estimated at $110,900 at full cost. The extent to which the permanent capacity of the Organization would need to be supplemented by temporary assistance resources can be determined only in the light of the calendar of conferences and meetings for the biennium 1998-1999. However, provision is made under subsection 27E, Conference Services, of the proposed programme budget for the biennium 1998-1999 not only for meetings programmed at the time of budget preparation but also for meetings authorized subsequently, provided that the number and distribution of meetings are consistent with the pattern of meetings of past years.

3. Consequently, should the Commission adopt the draft decision, no additional appropriations would be required.

Annex III

REPORTS OF WORKING GROUPS

I. Report of the working group on the elimination of violence against women

1. In accordance with Economic and Social Council resolution 1996/12, the working group on the elimination of violence against women considered the revised draft practical measures, strategies and activities in the field of crime prevention and criminal justice for the elimination of violence against women, contained in the annex to a report of the Secretary-General (E/CN.15/1997/11). The working group, which held one meeting on 28 April 1997, was appraised of the views expressed by States and various organizations regarding the circulated text of the draft measures as contained in the report of the Secretary-General and as reflected in the proposed amendments to the text of the draft measures.

2. It was the second time that the draft measures had been before the Commission on Crime Prevention and Criminal Justice for its consideration. The Commission had decided, at its fifth session, to make certain modifications to the measures and to circulate them for comment.

3. The working group was of the view that a final document, containing the practical measures, strategies and activities in the field of crime prevention and criminal justice for the elimination of violence against women, would provide a policy-oriented, practical crime prevention and criminal justice approach to efforts towards the elimination of violence against women, building upon measures adopted by the fourth World Conference on Women in its Platform for Action.[a]

4. At the outset, the working group discussed the need to explicitly state in the text of the measures the operational definition and thus delineate the scope of "violence against women" and the different forms of violence against women. Likewise, the need to reflect in the text the concerns of victims of all forms of gender-directed violence, particularly those recognized as especially vulnerable to such violence, was discussed. A determination was made as to the nature and extent of other relevant United Nations activities to be reflected in the text.

5. Concern was expressed about the danger of creating a new class of victim by according women victims special or preferential treatment, rather than "fair" treatment. Relevant to this concern was that measures taken to correct injustices or to close the gap related to discriminatory treatment might be counterproductive in terms of seeking gender equality.

6. In view of the differences in legal systems, it was felt that there was a need for a built-in flexibility which could facilitate subsequent national action. A range of technical questions raised in the working group resulted in considerable debate on subjects ranging from the substantive and procedural legal rights to be accorded to victims, on disarming the perpetrator, to acts of violence perpetrated against women in armed conflict and warfare.

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[a] *Report of the fourth World Conference on Women, Beijing, 4-15 September 1995* (A/CONF.177/20 and Add.1), chap. I, resolution 1, annex II.

7. As there was insufficient time to consider the proposed text of the draft practical measures in appropriate depth, a series of informal consultations were held on a shortened version of the Secretary-General's proposed draft measures put forward by Canada, which reflected the comments and discussion that had taken place in the working group. Those informal consultations were held under the chairmanship of the Canadian delegation.

8. The informal sessions of the working group resulted in agreement on the draft measures, and a text for the consideration of the plenary will be annexed to the draft resolution on this topic (E/CN.15/1997/L.7/Rev.1).

II. Report of the working group on United Nations standards and norms in crime prevention and criminal justice

9. The working group on United Nations standards and norms in crime prevention and criminal justice considered the following topics:

(a) *Report of the Secretary-General on the administration of juvenile justice (E/CN.15/1997/13)*. The report provided an overview of information received from Governments on the administration of juvenile justice and, in particular, their contributions to the elaboration of a programme of action to promote the effective use and application of international standards and norms in juvenile justice. In this connection, a draft resolution on the administration of juvenile justice (E/CN.15/1997/L.4/Rev.1) was submitted. The working group further considered the draft Programme of Action on Children in the Criminal Justice System, elaborated by a group of experts that had met at Vienna from 23 to 25 February 1997. The working group agreed that the draft Programme of Action had to be further considered in informal consultations with a view to finalizing it during the sixth session of the Commission.

(b) *Development of minimum rules for the administration of criminal justice, on the basis of the report of the Secretary-General on the subject (E/CN.15/1997/15 and Add.1)*. The report summarized the comments received from Governments regarding the following issues: utility of promulgating the draft minimum rules; the utility of convening an expert group to review the rules; and specific areas in which an expert group, if convened, would consider amending the text. During the debate on the report, some members of the working group expressed the view that table 2 incorrectly described their positions. Furthermore, although some participants supported the idea of convening an expert group meeting to review the draft minimum rules, especially if extra budgetary funds could be made available for that purpose, others had doubts about the utility of the text. The working group did not reach consensus on the proposal. Finally, additional consultations on the possible convening of an expert group to review the draft were suggested;

(c) *Report of the Secretary-General on the use and application of United Nations standards and norms in crime prevention and criminal justice (E/CN.15/1997/14 and Add.1), including comments received from States on the desirability of establishing an inter-sessional working group to examine the reports on the use and application of the standards and norms and to recommend to the Commission further action*. It also considered action to be taken to promote the standards and norms including appropriate next steps to follow up on the results obtained from the surveys and to disseminate the *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*. The working group recommended that further consultations should be undertaken, on the basis of a draft resolution on United Nations standards and norms in crime prevention and criminal justice (E/CN.15/1997/L.9/Rev.1);

(d) *Note by the Secretary-General on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (E/CN.15/1997/16 and Add.1).* The note provided an overview of recent developments related to the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, in particular with regard to the implementation of the mandates contained in Economic and Social Council resolution 1996/14 on the preparation of a manual or manuals on the use and application of the Declaration. The working group recommended that further consultations should be undertaken on the basis of a draft resolution submitted by the Netherlands on victims of crime and abuse of power.

Annex IV

LIST OF DOCUMENTS BEFORE THE COMMISSION AT ITS SIXTH SESSION

Document number	Agenda item	Title or description
E/CN.15/1997/1	2	Provisional annotated agenda for the sixth session of the Commission on Crime Prevention and Criminal Justice
E/CN.15/1997/1/Add.1	2	Proposed organization of work for the sixth session of the Commission on Crime Prevention and Criminal Justice
E/CN.15/1997/2 and Corr.1 and Add.1	3	Report of the Secretary-General on preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders
E/CN.15/1997/3 and Add.1	4	Report of the Secretary-General on action against corruption and bribery
E/CN.15/1997/4 and Corr.1	5 (a)	Report of the Secretary-General on measures to regulate firearms
E/CN.15/1997/5 and Add.1	5 (b)	Report of the Secretary-General on international cooperation and assistance in the management of the criminal justice system: computerization of criminal justice operations and the development, analysis and policy use of crime and criminal justice information
E/CN.15/1997/6 and Corr.1	6 (a) and (b)	Report of the Secretary-General on extradition and international cooperation in criminal matters
E/CN.15/1997/7	6 (a)	Report of the Secretary-General on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime
E/CN.15/1997/7/Add.1 and 2	6 (b)	Report of the Secretary-General on the question of the elaboration of an international convention against organized transnational crime
E/CN.15/1997/8 and Add.1	6 (d)	Report of the Secretary-General on measures to combat the smuggling of illegal migrants
E/CN.15/1997/9	6 (e)	Report of the Secretary-General on measures for the prevention and suppression of illicit trafficking in motor vehicles
E/CN.15/1997/10 and Add.1 and 2	6 (f)	Report of the Secretary-General on the role of criminal law in the protection of the environment

Document number	Agenda item	Title or description
E/CN.15/1997/11 and Add.1	7 (a)	Report of the Secretary-General on the elimination of violence against women
E/CN.15/1997/12 and Add.1	7 (b)	Report of the Secretary-General on measures to prevent illicit trafficking in children
E/CN.15/1997/13	8	Report of the Secretary-General on the administration of juvenile justice
E/CN.15/1997/14 and Add.1	8	Report of the Secretary-General on the use and application of United Nations standards and norms in crime prevention and criminal justice
E/CN.15/1997/15 and Add.1	8	Report of the Secretary-General on the development of United Nations minimum rules for the administration of criminal justice
E/CN.15/1997/16 and Add.1	8	Report of the Secretary-General on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
E/CN.15/1997/17	9	Report of the Secretary-General on technical cooperation and coordination of activities
E/CN.15/1997/18	9 (c)	Report of the Secretary-General on the activities of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network
E/CN.15/1997/19	10 (a)	Report of the Secretary-General on strategic management by the Commission on Crime Prevention and Criminal Justice of the United Nations Crime Prevention and Criminal Justice Programme
E/CN.15/1997/20	10 (b)	Note by the Secretary-General on the proposed programme of work in crime prevention and criminal justice for the biennium 1998-1999
E/CN.15/1997/L.1 and Add.1-9	12	Adoption of the report of the Commission on its sixth session
E/CN.15/1997/L.2	3	Austria: draft resolution
E/CN.15/1997/L.2/Rev.1	3	Austria and Finland: revised draft resolution
E/CN.15/1997/L.3	10 (a)	Austria: draft resolution
E/CN.15/1997/L.4	8	Austria: draft resolution
E/CN.15/1997/L.4/Rev.1	8	Austria: revised draft resolution

Document number	Agenda item	Title or description
E/CN.15/1997/L.5	5	Argentina and Netherlands: draft resolution
E/CN.15/1997/L.5/Rev.1	5	Argentina, India, Netherlands and Russian Federation: revised draft resolution
E/CN.15/1997/L.6	7 (b)	Argentina: draft resolution
E/CN.15/1997/L.7	7 (a)	Canada: draft resolution
E/CN.15/1997/L.7/Rev.1	7 (a)	Canada: revised draft resolution
E/CN.15/1997/L.8	8	Netherlands: draft resolution
E/CN.15/1997/L.8/Rev.1	8	Austria, Germany, Greece, Netherlands, Portugal and Sweden: revised draft resolution
E/CN.15/1997/L.9	8	Uganda: draft resolution
E/CN.15/1997/L.9/Rev.1	8	Canada: revised draft resolution
E/CN.15/1997/L.9/Rev.2	8	Austria, Canada, China, Lesotho, Madagascar, Slovenia, Sweden, Uganda and United Republic of Tanzania: revised draft resolution
E/CN.15/1997/L.10	9	United States of America: draft resolution
E/CN.15/1997/L.10/Rev.1	9	United States of America: revised draft resolution
E/CN.15/1997/L.10/Rev.2	9	Russian Federation, Turkey and United States of America: revised draft resolution
E/CN.15/1997/L.11	9	Argentina, Brazil and Paraguay: draft resolution
E/CN.15/1997/L.11/Rev.1	9	Argentina, Brazil, Colombia, Ecuador, Guatemala, Paraguay and Venezuela: revised draft resolution
E/CN.15/1997/L.12	4	Costa Rica: draft resolution
E/CN.15/1997/L.13	8	Costa Rica: draft resolution
E/CN.15/1997/L.14	8	Netherlands: draft resolution
E/CN.15/1997/L.14/Rev.1	8	Germany, Greece, Netherlands and Sweden: revised draft resolution
E/CN.15/1997/L.15	6 (e)	Poland: draft resolution
E/CN.15/1997/L.15/Rev.1	6 (e)	Germany, Japan, Poland, Russian Federation and Turkey: revised draft resolution
E/CN.15/1997/L.15/Rev.2	6 (e)	Germany, Poland, Russian Federation and United States of America: revised draft resolution

Document number	Agenda item	Title or description
E/CN.15/1997/L.16	6 (c)	Canada and United States of America: draft resolution
E/CN.15/1997/L.16/Rev.1	6 (c)	Australia, Canada, Poland, Tunisia and United States of America: revised draft resolution
E/CN.15/1997/L.17	4	United States of America: draft resolution
E/CN.15/1997/L.18	9	Uganda: draft resolution
E/CN.15/1997/L.18/Rev.1	9	Burundi, Lesotho, Madagascar, South Africa, Uganda and United Republic of Tanzania: revised draft resolution
E/CN.15/1997/L.19	5 (a)	Australia, Canada, Japan and Mexico: draft resolution
E/CN.15/1997/L.19/Rev.1	5 (a)	Australia, Canada, Japan and Mexico: revised draft resolution
E/CN.15/1997/L.20	6	Argentina, Australia, Italy, Poland and United States of America: draft resolution
E/CN.15/1997/L.20/Rev.1	6	Argentina, Australia, Italy, Poland and United States of America: revised draft resolution
E/CN.15/1997/L.20/Rev.2	6	Argentina, Australia, Austria, Croatia, Finland, France, Germany, Greece, Haiti, Italy, Netherlands, Nigeria, Philippines, Poland, Portugal, Russian Federation, Slovakia, Spain, Sweden, Tunisia and United States of America: revised draft resolution
E/CN.15/1997/L.21	9	Burundi, Costa Rica, Lesotho, Madagascar, Malawi, South Africa, Uganda, United Republic of Tanzania and Venezuela: draft resolution
E/CN.15/1997/L.21/Rev.1	9	Burundi, Costa Rica, Lesotho, Madagascar, Malawi, Malta, South Africa, Uganda and United Republic of Tanzania: revised draft resolution
E/CN.15/1997/L.22	4	Costa Rica and United States of America: draft resolution
E/CN.15/1997/L.23	11	Draft decision submitted by the Chairman

Document number	Agenda item	Title or description
E/CN.15/1997/CRP.1	10 (b)	Activities undertaken and results achieved by the informal consultative group on resource mobilization: report by the Chairman of the informal consultative group
E/CN.15/1997/CRP.2	10	Report of the bureau of the Commission on Crime Prevention and Criminal Justice at its fifth session on the inter-sessional consultations held in 1996 and 1997
E/CN.15/1997/CRP.3	6 (e)	Report of the Conference on International Cooperation in the Prevention and Control of the Theft of, and Illicit Trafficking in, Motor Vehicles, held in Moscow from 28 February to 2 March 1997
E/CN.15/1997/CRP.4	5 (a)	Report of the Expert Group Meeting on Gathering Information on and Analysis of Firearm Regulation, held at Vienna from 10 to 14 February 1997
E/CN.15/1997/CRP.5	6	Statement from the Organization for Security and Cooperation in Europe
E/CN.15/1997/CRP.6	5 (a)	Draft "United Nations international study on firearm regulation"
E/CN.15/1997/CRP.7	9	Poverty eradication
E/CN.15/1997/CRP.8	8	Report on the Expert Meeting on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, The Hague, Netherlands, 6-7 March 1997
E/CN.15/1997/CRP.9	8	Draft manual on the implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
E/CN.15/1997/CRP.10	7 (a)	Domestic violence: what next? Seminar and training course on domestic violence issues in Lithuania (Vilnius, Lithuania, 14-17 January 1997)
E/CN.15/1997/CRP.11	8	Draft international victim assistance handbook on the use and application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
E/CN.15/1997/CRP.12	5 (a)	Draft resource book: United Nations Crime and Justice Information Network; providing information to and from developing countries

Document number	Agenda item	Title or description
E/CN.15/1997/CRP.13 and Add.1	10	Strategic management: consolidated text of statements provided by Member States on information required in accordance with resolutions 1/1, 4/3 and 5/3 of the Commission on Crime Prevention and Criminal Justice
E/CN.15/1997/CRP.14	8	Report of the working group on United Nations standards and norms in crime prevention and criminal justice
E/CN.15/1997/CRP.15	6 (a) and (b)	Report of the Chairman of the working group on the implementation of the Naples Political Declaration and Global Action Plan against Organized Transnational Crime and the question of the elaboration of an international convention against organized crime
E/CN.15/1997/CRP.16	7	Report of the working group on the elimination of violence against women
E/CN.15/1997/CRP.17	10	Crime Prevention and Criminal Justice Division reporting obligations by agenda items: forecast 1997-2000
E/CN.15/1997/NGO/1 and Corr.1	9	Statement submitted by the World Organization of the Scout Movement (World Scout Bureau) (special consultative status)
E/CN.15/1997/NGO/2 and Corr.1	7 (a)	Statement submitted by HelpAge International, International Council of Women, International Federation of Business and Professional Women, Soroptimist International and Zonta International (general consultative status); All-India Women's Conference, Baha'i International Community, Caritas Internationalis (International Federation of Catholic Charities), Penal Reform, International Association of Howard League for Democratic Lawyers, International Council on Alcohol and Addictions, International Federation of University Women, International Society of Social Defense, Italian Centre of Solidarity, Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs) (International Movement of Catholic Students), Socialist International Women, World Association of Girl Guides and Girl Scouts and World Leisure and Recreation Association (special consultative status); and International Association of Charities and International Round Table for the Advancement of Counselling (roster)

Document number	Agenda item	Title or description
E/CN.15/1997/NGO/3	7 (a)	Statement submitted by International Council of Women, International Federation of Business and Professional Women, Soroptimist International and Zonta International (general consultative status); and International Federation of University Women (special consultative status)
E/CN.15/1997/NGO/4	5 (a)	Statement submitted by the National Rifle Association (roster)
E/CN.15/1997/NGO/5	6, 8 and 9 (c)	Statement submitted by the Centro Nazionale di Prevenzione e Difesa Sociale (special consultative status)
E/CN.15/1997/NGO/6	4 and 9 (c)	Statement submitted by the International Society of Social Defence (special consultative status)
E/CN.15/1997/NGO/7	9	Statement submitted by the Asia Crime Prevention Foundation (special consultative status)

Background document

Technical Assistance in Crime Prevention and Criminal Justice: Why, How and When?